



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
SUBPOENA AD TESTIFICANDUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Linda Lacewell
c/o Adam H. Schuman
Perkins Coie LLP
1155 Avenue of the Americas, 22nd Floor
New York, NY 10036

YOU ARE HEREBY COMMANDED, pursuant to Executive Law § 63(8) and New York Civil Practice Law and Rules § 2302(a), to appear and attend before the Special Deputies to the First Deputy Attorney General, on June 10, 2021 at 9:00 AM, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006 to testify in connection with an investigation into allegations of and circumstances surrounding sexual harassment claims made against Governor Cuomo, or any matter that the Attorney General deems pertinent thereto.

TAKE NOTICE that the Attorney General deems the testimony commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

TAKE NOTICE that the examination may be recorded by stenographic, videographic and/or audio means.

TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to appear and attend and testify on the date, time and place stated above or on any agreed upon adjourned date or time, ***may subject You to penalties and other lawful punishment*** under Executive Law § 63(8), New York Civil Practice Law and Rules § 2308 and/or other statutes.

EXHIBIT

1

WITNESS, The Honorable Letitia James, Attorney General of the State of New York,
this 4th day of June, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
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[REDACTED]@ag.ny.gov
[REDACTED]

By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
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[REDACTED]



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

SUBPOENA DUCES TECUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Linda A. Lacewell

YOU ARE HEREBY COMMANDED, under Executive Law § 63(8) and N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on **the 5th day of April, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

TAKE NOTICE that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under § 2308 of the New York Civil Practice Law and Rules and other statutes.

EXHIBIT

2

WITNESS, The Honorable Letitia James, Attorney General of the State of New York, this 24th day of March, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
[REDACTED]@ag.ny.gov
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By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
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SCHEDULE

A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, call, text message, instant message, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy

thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

B. Particular Definitions

1. “Complainant” means Jessica Bakeman, Charlotte Bennett, Lindsey Boylan, Karen Hinton, Ana Liss, Alyssa McGrath, Anna Ruch, and any other individual who has made any Complaints known to You, any other member of the Executive Chamber, or the public. For the avoidance of doubt, to the extent additional allegations come to light following the issuance of this Subpoena, individuals who make such allegations should be included in the definition of “Complainant.”

2. “Complaint” means any and all complaints, allegations, comments, accusations, or other statements of workplace misconduct, sexual harassment, sex- or gender-based misconduct, or other behavior or comments of a sexual, abusive or otherwise inappropriate or uncomfortable nature, whether made formally or informally.
3. “Executive Chamber” means the Executive Chamber of the State of New York, including but not limited to Governor Andrew M. Cuomo, and all other officers, directors, supervisors, personnel, employees, secretaries, interns, fellows, agents, contractors, consultants, representatives, and attorneys of the Executive Chamber, or any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing at any point during the relevant time.
4. “Executive Office” means any office within the New York State government in which employees and officers work directly with, work under the control of, answer to, or maintain direct contact with the Governor. This includes offices in Albany, Manhattan, and anywhere else in New York State.
5. “Governor” means the New York State Governor Andrew M. Cuomo.
6. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
7. “Respondent,” “You,” or “Your” means Linda A. Lacewell, in either an official or individual capacity.
8. “State” or “New York” means the State of New York.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You or any of Your officers, directors, employees, agents, representatives, consultants, divisions, affiliates, subsidiaries or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody and notify that Person of the Person's obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.
4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, *.csv and/or *.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was

maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.

8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.

12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.
15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able to competently testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

18. Time Period. Unless otherwise specified, the time period covered by this Subpoena shall be from January 1, 2013 forward.

D. Documents to Be Produced

1. Any and all Documents related to any Complaints concerning the Governor, including investigations thereof.
2. Any and all Documents concerning Communications with or about a Complainant.
3. Any and all Documents reflecting Communications between the Governor and any Complainant.
4. Any and all Documents concerning a Complainant's attendance at an event, appointment, or meeting at which the Governor was or would be present, including any at the Executive Offices or the Governor's Mansion.
5. Any and all Documents concerning any change in the position, title, employment, or office of any Complainant.
6. Any and all Documents concerning Communications with the media and public statements about the Complainants or Complaints concerning the Governor.
7. Any and all Documents relating to how to respond to Complaints concerning the Governor, including the nature of any investigations to be conducted about such Complaints.
8. Any and all Documents concerning Communications about Complaints related to the Governor.
9. Any and all Documents concerning retention or deletion of records within the Executive Chamber, including but not limited to Communications between members, statements, or policies regarding the deletion of emails, use of Blackberry instant messaging, and other means of communication.
10. Documents sufficient to identify Your employment history, beginning with Your employment by the Executive Chamber and up to the present day, including

but not limited to the time period of Your employment, Your title(s), Your position(s), Your responsibilities, and Your direct supervisor(s) for each position.

11. A list of all Your electronic devices used for any Communication related to the Executive Chamber or the Governor, whether personally owned or supplied to you by the Executive Chamber or the State.

12. A list of all Your email addresses or phone numbers used for any Communication related to the Executive Chamber or the Governor.

ATTACHMENT 1
Electronic Document Production Specifications

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena.

1. **Concordance Production Components.** A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
 - A. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
 - B. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
 - C. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
 - D. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
 - E. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. **Production Folder Structure.** The production must be organized according to the following standard folder structure:
 - data\ (contains production load files)
 - images\ (contains single-page TIF files, with subfolder organization)
 \0001, \0002, \0003...
 - native_files\ (contains native files, with subfolder organization)
 \0001, \0002, \0003...
 - text\ (contains text files, with subfolder organization)
 \0001, \0002, \0003...
3. **De-Duplication.** You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.
4. **Paper or Scanned Documents.** Documents that exist only in paper format must be scanned to single-page TIF files and OCR’d. The resulting electronic files should

be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.

5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.

A. Relational Databases

1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar “|”. If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
2. Each database must have an accompanying Data Dictionary.
3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.

B. Compression

1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.
 - A. ***Metadata Load File***
 - Required file format:
 - ASCII or UTF-8
 - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
 - .dat file extension
 - Field delimiter: (ASCII decimal character 20)
 - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
 - Multiple value field delimiter: ; (ASCII decimal character 59)
 - The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
 - Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
 - ***Note:*** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
 - Date and Time metadata must be provided in separate columns.
 - Accepted date formats:
 - mm/dd/yyyy
 - yyyy/mm/dd
 - yyyymmdd
 - Accepted time formats:
 - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)

- hh:mm:ss:mmm

B. ***Extracted or OCR Text Files***

- You must produce individual document-level text files containing the full extracted text for each produced document.
- When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document's full OCR text.
- The filename for each text file must match the document's beginning Bates number (BEGDOC) listed in the metadata load file.
- Text files must be divided into subfolders containing no more than 500 to 1000 files.

C. ***Single-Page Image Files (Petrified Page Images)***

- Where possible, all produced documents must be converted into single-page tagged image format ("TIF") files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
- Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
- For documents produced only in native format, you must provide a TIF placeholder that states "Document produced only in native format."
- Each single-page TIF file must be endorsed with a unique Bates number.
- The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
- Required image file format:
 - CCITT Group 4 compression
 - 2-Bit black and white
 - 300 dpi
 - Either .tif or .tiff file extension.
- TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.

D. ***Opticon Load File***

- Required file format:
 - ASCII
 - Windows formatted CR + LF end of line characters
 - Field delimiter: , (ASCII decimal character 44)
 - No Text Qualifier
 - .opt file extension

- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
 - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
 - VOLUME – this value is optional and may be left blank.
 - RELATIVE PATH – the filepath to each single-page image file on the production media.
 - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
 - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
 - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
 - PAGE COUNT – this value is optional and may be left blank.
- **Example:**
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,,2
 ABC00002,,IMAGES\0001\ABC00002.tif,,,,
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,,1
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,,1

E. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

ATTACHMENT 2
Required Fields for Metadata Load File

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family (<i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family (<i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

¹ Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\...\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }
County of _____ }

I, _____, being duly sworn, state as follows:

1. I am employed by Respondent in the position of _____
_____;
2. Respondent’s productions and responses to the Subpoena of the Attorney General of the State of New York, dated _____, 20_____ (the “Subpoena”) were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent’s productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent’s production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent’s productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person’s knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

* * *

Subscribed and sworn to before me this _____ day of _____, 20__.

_____, Notary Public

My commission expires: _____



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

SUBPOENA DUCES TECUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Linda Lacewell

YOU ARE HEREBY COMMANDED, under Executive Law § 63(8) and N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on **the 9th day of April, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

TAKE NOTICE that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

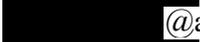
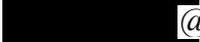
TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under § 2308 of the New York Civil Practice Law and Rules and other statutes.

EXHIBIT

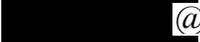
3

WITNESS, The Honorable Letitia James, Attorney General of the State of New York, this 6th day of April, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
@ag.ny.gov
@ag.ny.gov
@ag.ny.gov

By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
First Deputy Attorney General
@ag.ny.gov
@ag.ny.gov

SCHEDULE

A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, call, text message, instant message, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy

thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

B. Particular Definitions

1. “Complaint” means any and all complaints, allegations, comments, accusations, or other statements of workplace misconduct, sexual harassment, sex- or gender-based misconduct, or other behavior or comments of a sexual, abusive or otherwise inappropriate or uncomfortable nature, whether made formally or informally.
2. “Governor” means the New York State Governor Andrew M. Cuomo.

3. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
4. “Respondent,” “You,” or “Your” means Linda A. Lacewell, in either an official or individual capacity.
5. “State” or “New York” means the State of New York.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You or any of Your officers, directors, employees, agents, representatives, consultants, divisions, affiliates, subsidiaries or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody and notify that Person of the Person’s obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been

destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.

4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, *.csv and/or *.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.
8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of

- whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
 11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
 12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
 13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
 14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or

participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.

15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able to competently testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

D. Documents to Be Produced

1. Documents reflecting drafts, copies, or portions of the letter drafted, revised, or otherwise prepared in response to any Complaint by Lindsey Boylan concerning the Governor in or around December 2020, as referenced in the New York Times article titled "How Cuomo's Team Tried to Tarnish One of His Accusers," dated March 16, 2021.
2. If no Document responsive to the above request is currently in Your possession, custody, or control, any Documents sufficient to identify the approximate date(s) on which any copy of the letter referenced above were deleted and by whom.

ATTACHMENT 1
Electronic Document Production Specifications

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena.

1. **Concordance Production Components.** A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
 - A. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
 - B. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
 - C. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
 - D. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
 - E. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. **Production Folder Structure.** The production must be organized according to the following standard folder structure:
 - data\ (contains production load files)
 - images\ (contains single-page TIF files, with subfolder organization)
 \0001, \0002, \0003...
 - native_files\ (contains native files, with subfolder organization)
 \0001, \0002, \0003...
 - text\ (contains text files, with subfolder organization)
 \0001, \0002, \0003...
3. **De-Duplication.** You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.
4. **Paper or Scanned Documents.** Documents that exist only in paper format must be scanned to single-page TIF files and OCR’d. The resulting electronic files should

be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.

5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.

A. Relational Databases

1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar “|”. If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
2. Each database must have an accompanying Data Dictionary.
3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.

B. Compression

1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.
 - A. ***Metadata Load File***
 - Required file format:
 - ASCII or UTF-8
 - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
 - .dat file extension
 - Field delimiter: (ASCII decimal character 20)
 - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
 - Multiple value field delimiter: ; (ASCII decimal character 59)
 - The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
 - Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
 - ***Note:*** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
 - Date and Time metadata must be provided in separate columns.
 - Accepted date formats:
 - mm/dd/yyyy
 - yyyy/mm/dd
 - yyymmdd
 - Accepted time formats:
 - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)

- hh:mm:ss:mmm

B. ***Extracted or OCR Text Files***

- You must produce individual document-level text files containing the full extracted text for each produced document.
- When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document's full OCR text.
- The filename for each text file must match the document's beginning Bates number (BEGDOC) listed in the metadata load file.
- Text files must be divided into subfolders containing no more than 500 to 1000 files.

C. ***Single-Page Image Files (Petrified Page Images)***

- Where possible, all produced documents must be converted into single-page tagged image format ("TIF") files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
- Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
- For documents produced only in native format, you must provide a TIF placeholder that states "Document produced only in native format."
- Each single-page TIF file must be endorsed with a unique Bates number.
- The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
- Required image file format:
 - CCITT Group 4 compression
 - 2-Bit black and white
 - 300 dpi
 - Either .tif or .tiff file extension.
- TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.

D. ***Opticon Load File***

- Required file format:
 - ASCII
 - Windows formatted CR + LF end of line characters
 - Field delimiter: , (ASCII decimal character 44)
 - No Text Qualifier
 - .opt file extension

- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
 - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
 - VOLUME – this value is optional and may be left blank.
 - RELATIVE PATH – the filepath to each single-page image file on the production media.
 - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
 - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
 - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
 - PAGE COUNT – this value is optional and may be left blank.
- **Example:**
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,,2
 ABC00002,,IMAGES\0001\ABC00002.tif,,,,
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,,1
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,,1

E. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

ATTACHMENT 2
Required Fields for Metadata Load File

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family (<i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family (<i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

¹ Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\...\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }
County of _____ }

I, _____, being duly sworn, state as follows:

1. I am employed by Respondent in the position of _____
_____;
2. Respondent's productions and responses to the Subpoena of the Attorney General of the State of New York, dated _____, 20_____ (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent's productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent's production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent's productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

* * *

Subscribed and sworn to before me this _____ day of _____, 20__.

_____, Notary Public

My commission expires: _____



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

SUBPOENA DUCES TECUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Linda Lacewell
c/o Adam H. Schuman
Perkins Coie LLP
1155 Avenue of the Americas, 22nd Floor
New York, NY 10036

YOU ARE HEREBY COMMANDED, under Executive Law § 63(8), N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on **the 9th day of June, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

TAKE NOTICE that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time, and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under Executive Law § 63(8), New York Civil Practice Law and Rules § 2308, and other statutes.

EXHIBIT

4

WITNESS, The Honorable Letitia James, Attorney General of the State of New York, this 4th day of June, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
[REDACTED]
[REDACTED]@ag.ny.gov
[REDACTED]
[REDACTED]@ag.ny.gov
[REDACTED]

By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
First Deputy Attorney General
[REDACTED]@ag.ny.gov
[REDACTED]
[REDACTED]@ag.ny.gov
[REDACTED]

SCHEDULE

A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, call, text message, instant message, memorandum, meeting, or message (or post or comment directed at a specified person, such as a reply to a post or a post tagged with a username) received on or sent from any social media account You control (including but not limited to Facebook, Instagram, and Twitter), note, or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records, or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing, or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced, or stored (manually, mechanically, electronically, or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, posts on any social media account You control (including but not limited to Facebook, Instagram, and Twitter), all other Communications, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres, or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices, and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia,

underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s), and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses, and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic, or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

B. Particular Definitions

1. “Governor” means the New York State Governor Andrew M. Cuomo.

2. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General.
3. “Respondent,” “You,” or “Your” means Linda Lacewell and any agent, attorney, or other representative associated with or acting on Your behalf at any point during the relevant time.
4. “State” or “New York” means the State of New York.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit, or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate, or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit, or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating, or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody, or control. This includes, without limitation, Documents or information possessed or held by You or any of Your officers, employees, staff, agents, representatives, attorneys, consultants, or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody and notify that Person of the Person’s obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody, or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted, or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed, or transferred; and if such Document has been

destroyed or transferred, the conditions of and reasons for such destruction or transfer, and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.

4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, *.csv and/or *.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization, or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover, or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.
8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding, or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify, or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of

- whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization, or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
 11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
 12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
 13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
 14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or

participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.

15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able to competently testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine, and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created and information learned, acquired, or created at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit, or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
18. Time Period. Unless otherwise specified, the time period covered by this Subpoena shall be from February 1, 2019 forward.

D. Documents to Be Produced

1. Documents sufficient to show any approvals from the New York State Department of Financial Services or relevant State agencies regarding any outside activities by You, including the provision of legal services by You to the Executive Chamber, the Governor, or Andrew M. Cuomo in his personal capacity, on a pro bono basis or otherwise.

ATTACHMENT 1

Electronic Document Production Specifications

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena.

1. Concordance Production Components. A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
 - a. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
 - b. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
 - c. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
 - d. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
 - e. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. Production Folder Structure. The production must be organized according to the following standard folder structure:
 - data\ (contains production load files)
 - images\ (contains single-page TIF files, with subfolder organization)
 \0001, \0002, \0003...
 - native_files\ (contains native files, with subfolder organization)
 \0001, \0002, \0003...
 - text\ (contains text files, with subfolder organization)
 \0001, \0002, \0003...
3. De-Duplication. You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.

4. Paper or Scanned Documents. Documents that exist only in paper format must be scanned to single-page TIF files and OCR'd. The resulting electronic files should be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.
5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.
 - a. Relational Databases
 1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar "|". If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
 2. Each database must have an accompanying Data Dictionary.
 3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
 4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
 5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.
 - b. Compression
 1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.

a. ***Metadata Load File***

- Required file format:
 - ASCII or UTF-8
 - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
 - .dat file extension
 - Field delimiter: (ASCII decimal character 20)
 - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
 - Multiple value field delimiter: ; (ASCII decimal character 59)
- The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
- Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
- **Note:** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
- Date and Time metadata must be provided in separate columns.
- Accepted date formats:
 - mm/dd/yyyy
 - yyyy/mm/dd
 - yyyymmdd

- Accepted time formats:
 - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)
 - hh:mm:ss:mmm
- b. ***Extracted or OCR Text Files***
- You must produce individual document-level text files containing the full extracted text for each produced document.
 - When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document’s full OCR text.
 - The filename for each text file must match the document’s beginning Bates number (BEGDOC) listed in the metadata load file.
 - Text files must be divided into subfolders containing no more than 500 to 1000 files.
- c. ***Single-Page Image Files (Petrified Page Images)***
- Where possible, all produced documents must be converted into single-page tagged image format (“TIF”) files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
 - Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
 - For documents produced only in native format, you must provide a TIF placeholder that states “Document produced only in native format.”
 - Each single-page TIF file must be endorsed with a unique Bates number.
 - The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
 - Required image file format:
 - CCITT Group 4 compression
 - 2-Bit black and white
 - 300 dpi
 - Either .tif or .tiff file extension.
 - TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.
- d. ***Opticon Load File***
- Required file format:
 - ASCII
 - Windows formatted CR + LF end of line characters
 - Field delimiter: , (ASCII decimal character 44)
 - No Text Qualifier

- .opt file extension
- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
 - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
 - VOLUME – this value is optional and may be left blank.
 - RELATIVE PATH – the filepath to each single-page image file on the production media.
 - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
 - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
 - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
 - PAGE COUNT – this value is optional and may be left blank.
- **Example:**
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,2
 ABC00002,,IMAGES\0001\ABC00002.tif,,,,
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,1
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,1

e. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

ATTACHMENT 2
Required Fields for Metadata Load File

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family (<i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family (<i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

¹ Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4....
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\...\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }
County of _____ }

I, _____, being duly sworn, state as follows:

1. I am employed by Respondent in the position of _____
_____;
2. Respondent's productions and responses to the Subpoena of the Attorney General of the State of New York, dated _____, 20_____ (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent's productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent's production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent's productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

* * *

Subscribed and sworn to before me this _____ day of _____, 20__.

_____, Notary Public

My commission expires: _____

To: #EVERYONE [REDACTED]@exec.ny.gov
From: Lauren Grasso [O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=LGRASSO]
Sent: Tue 12/4/2018 11:08:01 AM Eastern Standard Time
Subject: Investigation of Complaints of Protected Class Employment Discrimination
Attachment: 18123 Notice to Chamber Employees of how to file a complaint.docx

TO: All Executive Chamber Employees
FROM: Lauren Grasso, Director of Administrative Services
SUBJECT: Investigation of Complaints of Protected Class Employment Discrimination

Effective December 1, 2018, all complaints of protected class employment discrimination will be investigated by the Governor's Office of Employee Relations (GOER) Anti-Discrimination Investigations Division.

If you have any questions about what constitutes protected class employment discrimination, please refer to the Equal Employment Opportunity Rights and Responsibilities Handbook for New York State Employees (*Handbook*) located at <https://goer.ny.gov/equal-employment-opportunity-rights-and-responsibilities-handbook-employees-new-york-state-agencies> and on the Executive Chamber Intranet. The Handbook is the State's anti-discrimination policy.

Below please find information on how to file complaints of protected class employment discrimination.

Filing an Internal Complaint

A complaint form that you may use is located on the Executive Chamber Intranet. A copy of this complaint form is located on the GOER website at <https://goer.ny.gov/new-york-state-discrimination-complaint-form>. You may submit this form electronically to GOER or print it out and mail directly to GOER at the address on the form.

You may also file a complaint with your supervisor, manager, Executive Staff, Counsel's Office or Human Resources. Each of these individuals is required to send your complaint to GOER so that it will be investigated. If you file a complaint with any of these individuals and you do not hear from a GOER investigator within **one week**, please contact GOER at (518) 474-1920 to ensure that GOER received your complaint.

Filing an External Complaint

Employees are not required to pursue the internal complaint procedure before filing a complaint with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or with a court, based on federal or state or local law.

The following agencies can provide information to employees and receive and investigate complaints of protected class employment discrimination.

- New York State Division of Human Rights
Website: www.dhr.ny.gov
Telephone: (888) 392-3644
TTY number: (718) 741-8300
- United States Equal Employment Opportunity Commission
Website: www.eeoc.gov
Telephone: (800) 669-4000
TTY number: (800) 669-6820
ASL Video Phone: (844) 234-5122

Lauren Grasso

Director of Administrative Services

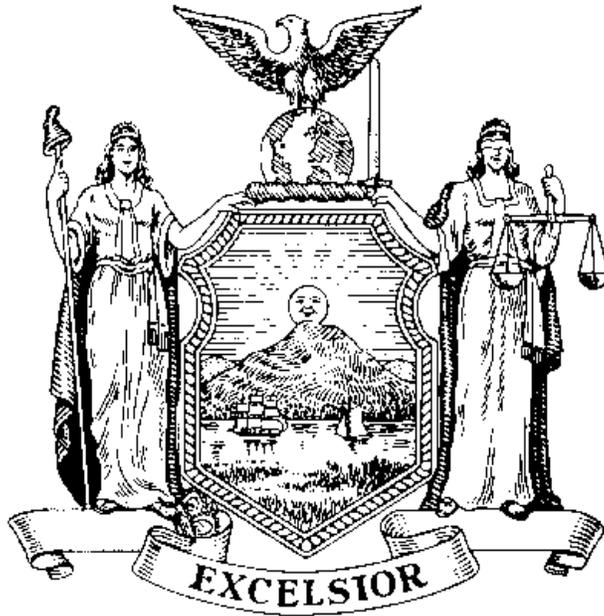
Office of Governor Andrew M. Cuomo
State Capitol, Albany, New York 12224

[REDACTED]@exec.ny.gov

www.governor.ny.gov

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**STATE OF NEW YORK
EXECUTIVE DEPARTMENT**



**EQUAL EMPLOYMENT OPPORTUNITY
In New York State**

RIGHTS AND RESPONSIBILITIES

A Handbook for Employees of New York State Agencies

**Andrew M. Cuomo
Governor**

December 2018

EXHIBIT

6

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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EMPLOYEE RIGHTS AND RESPONSIBILITIES

INTRODUCTION

New York State has long been committed to the proposition that all individuals in the State should have an equal opportunity to enjoy a full and productive life, including in their occupational pursuits. Under New York State's Human Rights Law, the first of its kind in the nation, employees are protected from acts of bias, harassment, prejudice and discrimination. Such acts have no place in the workplace, State or otherwise.

All State employees have the right to be free from unlawful discrimination as well as the responsibility to assure that their actions do not contribute to an atmosphere in which the State's policy of promoting a bias-free work environment is frustrated. This also applies to interns. This Handbook is intended to provide employees and interns of the State of New York with information on their rights and responsibilities under state and federal law with respect to equal employment opportunity. Emphasis will be placed on New York State's Human Rights Law because the protections it provides are generally greater than those granted under federal law. In addition, this Handbook will cover related state laws and Executive Orders.

This Handbook does not cover agency-specific policies and procedures related to discrimination. That information is provided to employees by their respective agencies.

PROTECTED AREAS

The Human Rights Law (“Law”) applies to all State agencies and employees and provides very broad anti-discrimination coverage. The Law provides, in section 296.1(a), that it is an unlawful discriminatory practice “[f]or an employer or licensing agency, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or domestic violence victim status of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment. Persons with disabilities, and persons with pregnancy-related conditions, are entitled to reasonable accommodation as provided in section 296.3.

Accommodation of sabbath observance or other religious practices is required by section 296.10. The Law further provides, in sections 296.15 and 296.16, protections from employment discrimination for persons with prior conviction records, or prior arrests, youthful offender adjudications or sealed records.

Each of these areas will be discussed in order below, as well as other protections provided by Governor’s Executive Orders and other state laws and policies.

AGE

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s age, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

While most cases of age discrimination concern allegations that an employee was perceived to be “too old” by an employer, under New York State law it is also discriminatory to base an employment decision on a perception that a person is “too young,” as long as the person is at least 18. However, basing a decision on lack of experience or ability is not discriminatory.

Decisions about hiring, job assignments or training must never be based on age-related assumptions about an employee’s abilities or willingness to learn or undertake new tasks and responsibilities.

All employees must refrain from conduct or language that directly or indirectly expresses a preference for employees of a certain age group. Ageist remarks must be avoided in the workplace.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Statutory protection.

Age discrimination is made unlawful by Human Rights Law § 296.1, § 296.3-a and § 296-c, and by the federal Age Discrimination in Employment Act (“ADEA”).¹ Under New York law, age discrimination in employment is prohibited against all persons eighteen years of age or older. Under the ADEA, age discrimination is prohibited only against persons forty years of age or older.

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 96,² which prohibits Age Discrimination in the workplace. The Executive Order notes that every State employee is entitled to work in an age-neutral environment with equal opportunity for hiring, promotion and retraining opportunities.

Retirement.

Mandatory retirement of employees at any specific age is generally prohibited, except as noted below.³ However, retirement plans may contain an age component for eligibility. Thus, retirement plans may require that persons attain a certain age or have some combination of age and years of service, before being eligible for retirement benefits.⁴

Incentive programs intended to induce employees to retire by granting them greater retirement benefits than those to which they would normally be entitled in order to reduce the size of the work force have generally been found to be lawful. Being eligible for “early retirement” is not coercion based on age. Similarly, that an employee may not be eligible for a retirement benefit or incentive because he or she has not attained a certain age (i.e., “too young”) is also not considered discriminatory.

Exceptions.

The Civil Service Law⁵ mandates minimum and maximum hiring ages for police officers. Correction Officers must be at least 21 years of age in order to be appointed.⁶ These are lawful exceptions to the provisions of the Human Rights Law.

¹ 29 U.S.C. § 621 et seq.

² Issued by Gov. Mario M. Cuomo on April 27, 1987.

³ Human Rights Law § 296.3-a(d) but see exceptions below.

⁴ Human Rights Law § 296.3-a(g).

⁵ N.Y. Civil Service Law § 58; see also N.Y. Executive Law § 215.3.

⁶ N.Y. Correction Law § 7(4).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

There are certain limited exceptions to the prohibition on mandatory retirement.⁷ For example, officers of the New York State Police are required to retire at age 60,⁸ and State park police officers are required to retire at age 62.⁹

In the area of employee benefits, the Human Rights Law does not “preclude the varying of insurance coverage according to an employee's age.”¹⁰

RACE and COLOR

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's race or color, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Discrimination because of a person's membership in or association with an identifiable class of people based on ancestry or ethnic characteristics can be considered racial discrimination.

There is no objective standard for determining an individual's racial identity. Therefore, the State defers to an employee's self-identification as a member of a particular race.

“Color” can be an independent protected class, based on the color of an individual's skin, irrespective of his or her race.

Statutory protection.

Race and color discrimination are unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.¹¹

CREED

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's creed, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

⁷ Human Rights Law § 296.3-a(g).

⁸ N.Y. Retirement and Social Security Law § 381-b(e).

⁹ N.Y. Park, Recreation and Historic Preservation Law § 13.17(4).

¹⁰ Human Rights Law § 296.3-a(g).

¹¹ 42 U.S.C. § 2000e et seq.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

“Creed” encompasses belief in a supreme being or membership in an organized religion or congregation. Atheism and agnosticism are considered creeds as well. A person is also protected from discrimination because of having no religion or creed. An individual’s self-identification with a particular creed or religious tradition is determinative.

Statutory protection.

Discrimination based on creed is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.¹²

Sabbath or holy day observance.

An employee is entitled to time off for religious observance of a sabbath or holy day or days, in accordance with the requirements of his or her religion, provided it does not impose an undue hardship to his or her employer, as explained below.¹³ Time off shall also be granted to provide a reasonable amount of time for travel before and after the observance.

The Human Rights Law provides that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at a mutually convenient time, or shall be charged against any available personal, vacation or other paid leave, or shall be taken as leave without pay.¹⁴ Agencies are not required to permit such absence to be made up at another time, but may agree that the employee may do so.

Leave that would ordinarily be granted for other non-medical personal reasons shall not be denied because the leave will be used for religious observance.¹⁵ Under no circumstances may time off for religious observance be charged as sick leave.¹⁶

The employee is not entitled to premium wages or benefits for work performed during hours to which such premium wages or benefits would ordinarily be applicable, if the employee is working during such hours only to make up time taken for religious observance.¹⁷

¹² 42 U.S.C. § 2000e et seq.

¹³ Human Rights Law § 296.10(a).

¹⁴ Human Rights Law § 296.10(b).

¹⁵ Human Rights Law § 296.10(c).

¹⁶ Human Rights Law § 296.10(b).

¹⁷ Human Rights Law § 296.10(a). “Premium wages” include “overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.” § 296.10(d)(2). “Premium benefit” means “an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due to the employee for an equivalent period of work performed during the regular work schedule of the employee.” § 296.10(d)(3).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Civil Service Law § 50(9) provides that candidates who are unable to attend a civil service examination because of religious observance can request an alternate test date from the Department of Civil Service without additional fee or penalty.

Religious observance or practices.

An employee who, in accordance with his or her religious beliefs, observes a particular manner of dress, hairstyle, beard, or other religious practice, should not be unreasonably required to compromise his or her practice in the workplace. The employer is required by law to make a bona fide effort to accommodate an employee's or prospective employee's religious observance or practice.¹⁸

Request for accommodation.

The employee needing time off or other accommodation of religious observance or practice should clearly state the religious nature of the request and should be willing to work with the employer to reach a reasonable accommodation of the need. Supervisors should consult with their human resources and/or legal departments, as necessary, with respect to requests for accommodation of religious observance or practices.

Conflicts with seniority rights.

In making the effort to accommodate sabbath observance or religious practices, the employer is not obliged to initiate adversarial proceedings against a union when the seniority provisions of a collective bargaining agreement limit its ability to accommodate any employee's religious observance or practice, but may satisfy its duty under this section by seeking volunteers willing to waive their seniority rights in order to accommodate their colleague's religious observance or practice. This waiver must be sought from the union that represents the employees covered by such agreement.

Undue hardship.

Before the employer can deny a religious accommodation, the employer must be able to show that accommodating the employee's religious observance or practice would result in undue hardship to the employer. The undue hardship standard applies generally to all accommodation requests, not only those for time off for religious observance. "Undue hardship" means an accommodation requiring significant expense or difficulty, including one that would cause significant interference with the safe or efficient operation of the workplace. Factors that are specifically to be considered are the identifiable costs (such as loss of productivity, or the cost to transfer or hire additional personnel), and the number of individuals who will need time off for a particular sabbath or holy day in relation to available personnel.¹⁹

Furthermore, in positions that require coverage around the clock or during particular hours, being available even on sabbath or holy days *may* be an essential function of the

¹⁸ Human Rights Law § 296.10(a).

¹⁹ Human Rights Law § 296.10(d)(1).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

job. Also, certain uniform appearance standards **may** be essential to some jobs. A requested accommodation will be considered an undue hardship, and therefore not reasonable, if it will result in the inability of an employee to perform an essential function of the job.²⁰

Exceptions.

None with regard to employment decisions. Accommodation is limited by reasonableness, conflicting seniority rights and undue hardship, as set forth above.

NATIONAL ORIGIN

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's national origin, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

National origin is defined as including ancestry, so an individual born in the United States is nonetheless protected against discrimination based on his or her ancestors' nationality.²¹ An individual's self-identification with a particular national or ethnic group is determinative.

Statutory protection.

National origin discrimination is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.²²

Language issues.

Fluency in English may be a job requirement. However, requiring that a person speaks English as his or her primary language, or be a "native speaker," may be considered national origin discrimination. In some circumstances, where a particular level of fluency in English is not necessary for job performance, requiring such fluency might also constitute national origin discrimination. The only lawful requirement is for a level of English fluency necessary for the job.

Requiring employees to speak only English, at all times in the workplace, may be national origin discrimination. Any specific workplace rule about language use must be reasonable and necessary to the efficient conduct of State business. Any such

²⁰ Human Rights Law § 296.10(d)(1).

²¹ Human Rights Law § 292.8.

²² 42 U.S.C. § 2000e et seq.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

reasonable rule that prohibits or limits the use of a language other than English in the workplace must be clearly communicated to employees before it can be enforced.²³

Requiring fluency in a language other than English, such as for employment in bilingual positions, is not discriminatory. However, a job qualification of language fluency must be based on an individual's ability, not on national origin. A requirement that an individual be a "native speaker" of a language other than English is discriminatory.

Proof of identity and employment eligibility.

All New York State employees hired after November 6, 1986 must be able to complete a verified federal Form I-9, which establishes the employee's identity and eligibility for employment in the United States. Rescinding an offer of employment or terminating employment based upon lack of current employment authorization is required by federal law and is not unlawful discrimination.²⁴

Citizenship requirements.

Employees serving in positions designated as "public offices," as well as peace and police officer positions defined in the New York State Criminal Procedure Law, must be United States citizens.²⁵

SEXUAL ORIENTATION

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's sexual orientation, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.²⁶

Statutory protection.

Discrimination on the basis of sexual orientation is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c. Sexual orientation is not a protected class under

²³ See the federal Equal Employment Opportunity Commission's regulation at 29 CFR § 1606.7.

²⁴ US Immigration and Nationality Act § 274A, as modified by the Immigration Reform and Control Act of 1986, Immigration Act of 1990 and Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

²⁵ Public Officers Law § 3(1); Criminal Procedure Law § 1.20(34) (police officers); Criminal Procedure Law § 2.10 (peace officers).

²⁶ Human Rights Law § 292.27.

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federal law. However, sexual orientation discrimination may also be considered sex discrimination under federal law.

Same-sex spouses or partners.

The New York State Marriage Equality Act, signed by Governor Cuomo on June 24, 2011, and effective on July 24, 2011, authorizes marriages between same-sex couples in the State of New York. New York State also recognizes marriages between same-sex couples performed in any jurisdiction where such marriages are valid. Spousal benefits will be provided to same-sex spouses in the same manner as to opposite-sex spouses of State employees. Failure to offer equal benefits, or to discriminate against an employee in a marriage with a same-sex spouse, is considered discrimination on the basis of sexual orientation.

Domestic partners.

Same-sex partners who are not married may also qualify for benefits. The employer and his or her partner can fill out the *Application for Domestic Partner Benefits and Affidavit of Domestic Partnership and Financial Interdependence*, which is available on-line from the Department of Civil Service. Opposite-sex domestic partners can also qualify for benefits on the same basis as same-sex partners.

MILITARY STATUS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's military status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Military status" is defined in the Human Rights Law as a person's participation in the military service of the United States or the military service of the State, including but not limited to, the armed forces of the United States, the Army National Guard, the Air National Guard, the New York Naval Militia, or the New York Guard.²⁷

Statutory protection.

Discrimination on the basis of military status is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA)²⁸ provides additional protections.

Military leave provisions for State workers (and all public employees) are contained in N.Y. Military Law § 242 and § 243. Under the 2008 amendments to the federal Family

²⁷ Human Rights Law § 292.28.

²⁸ 38 U.S.C. §§ 4301-35.

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and Medical Leave Act (FMLA), employees with a family member who is on active duty or on call to active duty status may be eligible for qualifying exigency leave or military caregiver leave of up to 26 weeks in a 12-month period, based upon the family member's military service.

Military leave and job retention rights.

N.Y. Military Law entitles State employees to a leave of absence for "ordered military duty"²⁹ or "military duty."³⁰ Both provisions entitle State employees to return to their jobs with the same pay, benefits, and status they would have attained had they remained in their position continuously during the period of military duty. State employees on leave for military duty continue to accrue years of service, increment, and any other rights or privileges. Under both Military Law and the Human Rights Law, those called to military duty, or who may be so called, may not be prejudiced in any way with reference to promotion, transfer, or other term, condition or privilege of employment. Military Law § 243(5) provides: "State employees on leave for military duty shall suffer no loss of time, service, increment, or any other right or privilege, or be prejudiced in any way with reference to promotion, transfer, reinstatement or continuance in office. Employees are entitled to contribute to the retirement system in order to have leave time count toward determining length of service."

Similarly, under USERRA, service members who leave their civilian jobs for military service are entitled to return to their jobs with the same pay, benefits, and status they would have attained had they not been away on duty. USERRA also prohibits employers from discriminating against these individuals in employment because of their military service, or for exercising their rights under USERRA.

SEX

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's sex, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Statutory protection.

Sex discrimination is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.³¹

²⁹ N.Y. Military Law § 242; pertains to members of the militia, the reserve forces, or reserve components of any branch of the military.

³⁰ N.Y. Military Law § 243; pertains to active duty in the armed forces or reservists called to active duty.

³¹ 42 U.S.C. § 2000e et seq.

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Sex stereotyping.

Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to general societal norms or other perceptions about how individuals of either sex should act or look. For example, conduct may be considered “too aggressive” only because the individual is female, a person may be considered to be “too sensitive” only because that person is male, or a person might not look or dress in a manner consistent with another person’s views of how a man or woman should look or dress. Making employment decisions based on sex-stereotyped evaluations of conduct, looks or dress can be considered sex discrimination.

Harassment because a person does not conform to gender stereotypes is sexual harassment. Derogatory comments directed at a person who has undergone sex reassignment surgery can be sexual harassment, just as comments about secondary sex characteristics of any person can be sexual harassment.

Non-harassment related sex discrimination can also arise in the context of gender transition issues such as an employer’s refusal to recognize an employee’s sex after transition. For more information on transgender issues, see below: [Gender Identity](#) and [Disability](#).

Sexual harassment.

Sexual harassment constitutes sex discrimination. (See below: [Sexual Harassment](#)).

Pregnancy and childbirth discrimination .

Discrimination on the basis of pregnancy or childbirth constitutes sex discrimination. (See below: [Pregnancy, Childbirth and Parental Leave](#)).

Exceptions.

Both State and federal law permit consideration of sex in employment decisions when it is a bona fide occupational qualification (BFOQ). This is, however, an **extremely narrow** exception to the anti-discrimination provisions of the Human Rights Law. Neither customer preference nor stereotyped and generalized views of ability based on sex can form the basis for a BFOQ. However, proof that employing members of a particular sex would impinge on the legitimate personal privacy expectations of an agency’s clients, particularly in a custodial environment, may make out a case for a BFOQ.

SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination and is unlawful. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Statutory protection.

Sexual harassment is prohibited as a form of sex discrimination under the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.³²

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2 reissuing Executive Order No. 19,³³ which established State policy on sexual harassment in the workplace.

Sexual harassment.

Sexual harassment is both offensive and unlawful. Every State employee and intern is entitled to a working environment free from sexual harassment and its negative economic, psychological and physical effects. Allowing sexual harassment to go unchecked in State workplaces would create significant costs to the State in both human and financial terms, including the replacement of personnel who leave their jobs, increased use of health benefit plans due to emotional and physical stress, absenteeism, and decline in individual and workgroup productivity.

Every employer in New York State must have in place a policy on sexual harassment prevention, which includes a procedure for the receipt and investigation of complaints of sexual harassment. This policy and procedure should be distributed to new employees and made available to all staff as needed. Also, each agency must provide appropriate sexual harassment training to its staff.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or

³² 42 U.S.C. § 2000e et seq.

³³ Issued by Gov. Mario M. Cuomo on May 31, 1983.

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- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

Hostile environment sexual harassment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment. Only supervisors are deemed to engage in this kind of harassment, because co-workers do not have the authority to grant or withhold benefits.

With respect to inappropriate questions during the hiring process or during employment, see below: [Unlawful Inquiries](#).

Employees should consult their agency's sexual harassment policy for further discussion of what constitutes sexual harassment.

As with all discrimination and harassment, if an employee is a victim of sexual harassment, or observes it in the workplace, the employee should complain promptly to a supervisor, managerial employee, personnel administrator, or equal employment officer. The complaint can be verbal or in writing. If the complaint is verbal, a written complaint may be required in order to assist in the investigation. Any complaint, whether verbal or written, must be investigated by the agency. Furthermore, any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature, must report such conduct so that it can be investigated.

If an employee is harassed by a co-worker or a supervisor, it is very important that a complaint be made to a higher authority promptly. An agency cannot stop sexual harassment unless it has knowledge of the harassment. Once informed, the agency is required to initiate an investigation and take prompt and effective remedial action where appropriate.

See below: [Harassment](#).

Harassment by a non-employee.

The employing agency has the duty to prevent harassment in the workplace including harassment by non-employees, such as vendors, consultants, clients, customers, visitors or interns.

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Harassment of non-employees.

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment by Human Rights Law § 296-d.

In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

DISABILITY

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's disability, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

All employees must be able to perform the essential functions of their jobs in a reasonable manner, with or without a reasonable accommodation. Consideration of requests for accommodation of applicants or employees with disabilities is required and should be granted where reasonable.

Statutory protection.

Disability discrimination is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Reasonable accommodation is required of employers pursuant to Human Rights Law § 296.3(a). New York State law has a very broad definition of disability, and generally protects persons with any disabling condition, including temporary disabilities. Disability discrimination is also unlawful under federal law. However, the scope of disability under the provisions of the Americans with Disability Act (ADA) is not as broad.³⁴ The Federal Rehabilitation Act of 1973 § 503 and § 504³⁵ also apply to many State workers. Federal law also requires reasonable accommodation.

Guide dog, hearing dog, and service dog provisions are found in Human Rights Law § 296.14. An employee who uses a guide, hearing or service dog is also protected by Civil Rights Law § 47-a and § 47-b.

What is a “disability” under the Human Rights Law?

A “disability” is:

- a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a

³⁴ 42 U.S.C. § 12111 et seq.

³⁵ 29 U.S.C. § 793 and § 794.

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normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or

- a record of such an impairment or
- a condition regarded by others as such an impairment.³⁶

Because this definition includes any impairment that is demonstrable by clinical or laboratory diagnostic techniques, it includes most disabling conditions.

Reasonable performance.

An employee with a disability must be able to achieve “reasonable performance” in order to be protected by the Human Rights Law. Reasonable performance is not perfect performance or performance unaffected by the disability, but job performance reasonably meeting the employing agency’s needs to achieve its governmental functions. An employee with a disability is entitled to reasonable accommodation if it will permit the employee to achieve reasonable job performance.

Essential functions.

A function is essential if not performing it would fundamentally change the job for which the position exists. If a function is not essential to the job, then it can be reassigned to another employee, and the employee with a disability may not be required to perform that function.

Employers may ask applicants with disabilities about their ability to perform specific job functions and tasks, as long as all applicants are asked in the same way about their abilities. Employers may require applicants/employees to demonstrate capacity to perform the physical demands of a particular job, in the same way as applicants are asked to demonstrate competence and qualifications in other areas. Such tests of capacity, agility, endurance, etc. are non-discriminatory as long as they can be demonstrated to be related to the specific duties of the position applied for and are uniformly given to all applicants for a particular job category.

Reasonable Accommodation.³⁷

A reasonable accommodation is an adjustment or modification made to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. Some examples of reasonable accommodation include:

- A modified work schedule;
- Reassignment of the non-essential functions of the job;
- Acquisition or modification of equipment;

³⁶ Human Rights Law § 292.21.

³⁷ With respect to policy and procedures relative to reasonable accommodation generally, employees should consult the publication [Procedures for Implementing Reasonable Accommodation for Applicants and Employees in New York State Agencies](#).

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- Provision of an accessible worksite.

All otherwise qualified applicants and employees are entitled to reasonable accommodation of disability. Accommodation is required if it is reasonable and will assist in overcoming an obstacle caused by the disability that prevents the person from applying for the position, from performing the essential functions of the position, or from receiving equal terms, conditions or privileges of the position.

Unless the disability is obvious (e.g. employee's use of a wheelchair) the applicant or employee must inform the employing agency of the need for accommodation. The employee also must provide reasonable medical documentation as requested by the agency and engage in an interactive process with the agency in order to reach an effective and reasonable accommodation.

Once an accommodation has been requested, the agency has an obligation to verify the need for the accommodation. If the need for accommodation exists, then the employing agency has an obligation to seek an effective solution through an interactive process between the agency and the employee.

While the employee can request a particular accommodation, the obligation to provide a reasonable accommodation is satisfied where the needs of the person with the disability are met. The agency has the right to decide which reasonable accommodation will be granted, so long as it is effective in enabling the employee to perform the job duties in a reasonable manner.

An agency may require a doctor's note to substantiate the request, or a medical examination where appropriate, but must maintain the confidentiality of an employee's medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the disability, or any additional information that is otherwise necessary for consideration of the accommodation.³⁸

Information provided for purposes of reasonable accommodation cannot be used by the agency for another purpose such as a basis for referring an employee for a medical examination to determine fitness for duty pursuant to Civil Service Law section 72(1) or placing the employee on an involuntary leave of absence pursuant to Civil Service Law section 72(5) or other personnel actions.

Many common questions about reasonable accommodation are explained in the reasonable accommodation regulations³⁹ of the New York State Division of Human Rights, which are available on the Division's website. These regulations may be used by applicants, employees, and agency personnel in order to better understand the reasonable accommodation process.

³⁸ Human Rights Law § 296.3.

³⁹ 9 N.Y.C.R.R. § 466.11.

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Family Medical Leave Act (29 USC sections 2601 to 2654).

The State as an employer cannot take adverse action against employees who exercise their rights to medical leave for the birth, adoption, or foster care placement of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the Act. The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a 12-month period. (Military caregivers may be entitled to up to 26 weeks of leave. See above: [Military Status.](#))

Paid Family Leave.

The New York State Paid Family Leave Law⁴⁰ provides for paid leave to bond with a newly born, adopted or fostered child; care for a close relative with a serious health condition; or assist loved ones when a family member is deployed abroad on active military service. The amount of paid leave available increases to a total of 12 weeks by 2021. State employees not represented by a union in bargaining units 06, 18, 46 and 66 are covered by the law. State employees represented by a union may be covered if Paid Family Leave is collectively bargained for.

More information is available on the New York State website at <https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-information-employees>. This includes information on who is eligible, and how to apply.

Civil Service Law §§ 71 and 73.

The Civil Service Law allows an agency to terminate an employee after one cumulative year of absence for a disability resulting from an occupational injury or disease as defined in the Workers' Compensation Law.⁴¹ This is extended to two years for an individual injured in an assault that causes such injury or disease. The Civil Service Law also allows an agency to terminate an employee who has been continuously absent for one year for a personal injury or illness.⁴²

Drug and Alcohol-Free Workplace Policy.

New York State employees are subject to criminal, civil, and disciplinary penalties if they distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace or while acting in a work-related capacity. Such illegal acts, even if engaged in while off duty, may result in disciplinary action. In those locations where it is permitted, an employee may possess and use a controlled substance that is properly prescribed for the employee by a physician. Employees are also prohibited from on-the-job use of, or impairment from alcohol. If a supervisor has a reasonable suspicion that an employee is unable to perform job duties due to a disability which may be caused by the use of controlled substances or alcohol, that employee may be required

⁴⁰ Workers Compensation Law, art. 9, §§ 200, et seq.

⁴¹ Civil Service Law § 71.

⁴² Civil Service Law § 73.

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to undergo medical testing.⁴³ If the cause of the disability is found to be drug- or alcohol-related, the employee may be referred to voluntary and confidential participation in the statewide Employee Assistance Program. Other available options include pursuing disability leave procedures or disciplinary measures. On-line supervisory training regarding a drug and alcohol free workplace is available through the GOER's Online Learning Center at <https://nyslearn.ny.gov/>.

The Federal Drug-Free Workplace Act of 1988, amended in 1994, requires that all agencies that have contracts with the United States Government that exceed \$100,000, and all agencies that receive Federal grants, maintain a drug-free workplace. If an employee is involved in work on a contract or grant covered by this law, they are required to notify their employer of any criminal drug statute conviction, for a violation occurring in the workplace, not less than five days after the conviction. Agencies covered by this law must notify the Federal government of the conviction and must take personnel action against an employee convicted of a drug abuse violation.

Drug Addiction and Alcoholism under the Human Rights Law and Regulations.⁴⁴

An individual who is currently using drugs illegally is not protected under the disability provisions of the Human Rights Law. The law protects individuals who are recovered or recovering drug addicts or alcoholics and may protect alcoholics if the alcoholism does not interfere with job performance.

Intoxication or use of alcohol on the job is not protected. A test to determine the illegal use of drugs is not considered a medical test that is governed by the Human Rights Law. Agencies have differing requirements and policies with regard to drug testing.

If an individual is protected by the Human Rights Law, adjustment to work schedules, where needed to allow for ongoing treatment, is allowed as an accommodation where reasonable, if the individual is still able to reasonably perform the essential functions of the job, including predictable and regular attendance.

See above: [Drug and Alcohol-Free Workplace Policy](#).

Guide dogs, hearing dogs, and service dogs.

Users of guide dogs, hearing dogs, or service dogs that are trained as provided in the Human Rights Law are given protection by the Human Rights Law.⁴⁵

The use of such a dog is not considered a "reasonable accommodation," but a right protected separately under the Human Rights Law, and the dog owner need not specifically request permission to bring the dog into the workplace. This specific

⁴³ For agencies that do not have their own drug/alcohol testing procedures, this test must be done pursuant to Civil Service Law § 72.

⁴⁴ See *generally* 9 N.Y.C.R.R. § 466.11(h).

⁴⁵ Human Rights Law § 296.14.

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provision has no parallel in the federal ADA, under which the matter would instead be analyzed to determine whether a reasonable accommodation is appropriate.

This right to be accompanied by such dogs in the workplace applies only to dogs that meet the definitions found in the Human Rights Law.

A “guide dog” or “hearing dog” is a dog that is trained to aid a person who is blind, deaf or hard of hearing, is actually used to provide such aid, and was trained by a guide or hearing dog training center or professional guide or hearing dog trainer.⁴⁶

A “service dog” may perform a variety of assistive services for its owner. However, to meet the definition, the dog must be trained by a service dog training center or professional service dog trainer.⁴⁷

Dogs that are considered therapy, companion or other types of assistance dogs, but who have not been professionally trained as stated in the definitions above, are not covered by this provision.⁴⁸

The provision also does not apply to animals other than dogs, regardless of training.

Dogs not meeting one of the definitions, or animals other than dogs, may provide assistance or companionship to a person with a disability. However, they are generally **not** permitted into the workplace as a reasonable accommodation, because the workplace and other employees can be adversely impacted by animals that are not professionally trained by guide, hearing or service dog trainers, as provided above. The New York State Civil Service Law provides qualified employees with special leave benefits for the purposes of obtaining service animals or guide dogs and acquiring necessary training.⁴⁹

Exceptions.

The Human Rights Law does not require accommodation of behaviors that do not meet the employer's workplace behavior standards that are consistently applied to all similarly situated employees, even if these behaviors are caused by a disability.⁵⁰

Reasonable accommodation is not required where the disability or the accommodation itself poses a direct threat, which means a significant risk of substantial harm to the

⁴⁶ Human Rights Law §§ 292.31-32.

⁴⁷ Human Rights Law § 292.33.

⁴⁸ A dog may be licensed as a “service” dog, and nevertheless not meet the definition of service dog for purposes of the Human Rights Law. N.Y. Agriculture & Markets Law § 110, which requires the licensing of dogs, permits municipalities to exempt from licensing fees various categories of dogs, including “service” and “therapy” dogs, but the section provides no definitions of those categories.

⁴⁹ Civil Service Law § 6(1).

⁵⁰ 9 N.Y.C.R.R. § 466.11(g)(1).

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health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation.⁵¹

PREDISPOSING GENETIC CHARACTERISTICS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of the applicant or employee having a predisposing genetic characteristic, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Testing for such genetic characteristics is prohibited in most circumstances.

Statutory protection.

Discrimination on the basis of a genetic characteristic is unlawful pursuant to Human Rights Law § 296.1, § 296.19, and § 296-c. It is also covered by the federal Genetic Information Nondiscrimination Act (GINA).⁵²

What is a predisposing genetic characteristic?

A predisposing genetic characteristic is defined as “any inherited gene or chromosome, or alteration thereof, . . . determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.”⁵³

How is the employee or applicant protected?

It is an unlawful discriminatory practice for any employer to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment or pre-employment application.⁵⁴ It is also unlawful for an employer to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make

⁵¹ 9 N.Y.C.R.R. § 466.11(g)(2).

⁵² As with Title VII, the ADA and the ADEA, the Genetic Information Nondiscrimination Act is enforced by the federal Equal Employment Opportunity Commission. When codified, GINA was distributed throughout various sections of Titles 29 and 42 of the United States Code. For more details on GINA, see <http://www.eeoc.gov/laws/types/genetic.cfm>.

⁵³ Human Rights Law § 292.21-a.

⁵⁴ Human Rights Law § 296.19(a)(1).

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an agreement with an individual to take a genetic test or provide genetic test results or such information.⁵⁵

An employee may give written consent to have a genetic test performed, for purposes of a worker's compensation claim, pursuant to civil litigation, or to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment. The employer may not take any adverse action against an employee on the basis of such voluntary test.⁵⁶

Exceptions.

An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in that environment.⁵⁷ However, the employer may not take adverse action against the employee as a result of such testing.

FAMILIAL STATUS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's familial status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Familial status" includes being pregnant, having a child under the age of 18, having legal custody of any person under the age of 18, or having a person under the age of 18 residing in the home of the designee of the parent, or being in the process of securing custody, adoption or foster care placement of any person under 18.

Statutory protection.

Discrimination on the basis of familial status is unlawful pursuant to Human Rights Law § 296.1. Familial status is not a protected class under federal law.

Familial status does not include the identity of the children.

Parents or guardians of children are protected from discrimination on the basis of the **status** of being a parent or guardian, not with regard to who their children are. Therefore, actions taken against an employee because of who their child is, or what that child has done, do not implicate familial status discrimination.

⁵⁵ Human Rights Law § 296.19(a)(2).

⁵⁶ Human Rights Law § 296.19(c) and (d).

⁵⁷ Human Rights Law § 296.19(b).

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Nepotism.

Nepotism means hiring, granting employment benefits, or giving other favoritism based on the identity of a person's family member. Anti-nepotism rules do not implicate familial status discrimination, because anti-nepotism rules involve the **identity** of the employees as relatives, not their **status** as parent, child, or spouse. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a family member.⁵⁸ Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes.

What is familial status discrimination?

Familial status discrimination would include, but not be limited to, making employment decisions about an employee or applicant:

- because she is pregnant;
- because she or he has children at home, or has "too many" children;
- based on belief that someone with children will not be a reliable employee;
- because she or he is a single parent;
- because she or he is a parent, regardless of living arrangements;
- because she or he is living with and caring for a grandchild;
- because she or he is a foster parent, or is seeking to become a foster parent, or to adopt a child;
- because a father has obtained custody of one or more of his children and will be the primary caretaker;
- based on the belief that mothers should stay home with their children; or
- because of any other stereotyped belief or opinion about parents or guardians of children under the age of 18.

No requirement of reasonable accommodation.

The Human Rights Law explicitly states that the familial status provisions do not create any right to reasonable accommodation on that basis.⁵⁹ Therefore, the employer is not required to accommodate the needs of the child or children and is not required to grant time off for the parent to attend school meetings, concerts, sporting events, etc., as an accommodation. However, the employer must grant such time off to the same extent that time off is granted to employees for other personal reasons.

The familial status protections do not expand or decrease any rights that a parent or guardian has under the federal Family Medical Leave Act or the New York State Paid Family Leave Act (where these are applicable) to time off to care for family members. (See above: [Family Medical Leave Act and Paid Family Leave.](#))

⁵⁸ Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

⁵⁹ Human Rights Law §296.3

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Pregnancy and childbirth discrimination.

Discrimination on the basis of pregnancy constitutes familial status discrimination. (See below: [Pregnancy, Childbirth and Parental Leave.](#))

MARITAL STATUS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's marital status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Marital status" is the condition of being single, married, separated, divorced, or widowed.

Statutory protection.

Discrimination on the basis of marital status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Marital status is not covered by federal law.

Marital status does not include the identity of the spouse.

Discrimination based on the identity of the individual to whom a person is married is not marital status discrimination, as it is only the status of being married, single, divorced, or widowed that is protected. Thus, terminating employment because of the actions of a spouse would not be considered marital status discrimination, because the action was taken not based on the fact that the employee was married but that the employee was married to a particular person.

Nepotism.

Nepotism means hiring, granting employment benefits, or other favoritism based on the identity of a person's spouse or other relative. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a spouse or other relative.⁶⁰ Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes. Such anti-nepotism rules do not implicate marital status discrimination.

⁶⁰ Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

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What is marital status discrimination?

Some examples of marital status discrimination are:

- expecting an employee to work a disproportionate number of extra shifts or at inconvenient times because he or she is not married, and therefore won't mind.
- selecting a married person for a job based on a belief that married people are more responsible or more stable.
- giving overtime or a promotion to a married person rather than a single person based on a belief that the single person does not have to support anyone else.

DOMESTIC VIOLENCE VICTIM STATUS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's status as a victim of domestic violence, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Statutory protection.

Discrimination based on domestic violence victim status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. There is no similar federal protection.

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 19,⁶¹ which requires adoption of domestic violence and the workplace policies by all executive branch State agencies.

Purpose of domestic violence and the workplace policies.

Domestic violence permeates the lives and compromises the safety of New York State residents with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The purpose of the policy is to address the impacts of domestic violence already being felt in the workplace.

⁶¹ Issued by Gov. Eliot L. Spitzer on October 22, 2007.

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The workplace can sometimes be the one place where the victim is not cut off from outside support. The victim's job, financial independence, and the support of the workplace can be part of an effective way out of the abusive situation. Therefore, the domestic violence and the workplace policy aims to support the victim in being able to retain employment, find the resources necessary to resolve the problem, and continue to serve the public as a State employee.

Meeting the needs of domestic violence victims.

A victim of domestic violence can ask the employer for accommodations relating to his or her status, which can include the following:

- Employee's need for time off to go to court, to move, etc., should be granted at least to the extent granted for other personal reasons.
- If an abuser of an employee comes to the workplace and is threatening, the incident should be treated in same manner as any other threat situation. It is not to be treated as just the victim's problem which the victim must handle on her or his own. The victim of domestic violence must not be treated as the "cause" of the problem and supervisory employees must take care that no negative action is taken against the victim because, for example, the abuser comes to the workplace, the victim asks the employer to notify security about the potential for an abuser to come to the workplace, or the victim provides an employer with information about an order of protection against the abuser.
- If a victim needs time off for disability caused by the domestic violence, it should be treated the same as any temporary disability. This includes time off for counseling for psychological conditions caused by the domestic violence. (See above: [Disability](#). Note: temporary disabilities are covered under the Human Rights Law.)
- The State's domestic violence and the workplace policy requires this and more. Employees should consult their agency's policy to understand the support it affords to victims of domestic violence, which may include the following:
 - Assistance to the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of domestic violence.
 - Assistance with enforcement of all known court orders of protection, particularly orders in which the abuser has been ordered to stay away from the work site.
 - Refraining from any unnecessary inquiries about domestic violence.
 - Maintenance of confidentiality of information about the domestic violence victim to the extent possible.
 - Establishment of a violence prevention procedure, such as a policy to call "911" if an abuser comes to the workplace.
 - Working with the domestic violence victim to develop a workplace safety plan.

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In addition, the policy also sets out standards for the agency to hold employees accountable who utilize State resources or use their position to commit an act of domestic violence.

Time off for legal proceedings.

In addition to the requirement of the domestic violence and the workplace policy that victims be granted reasonable time off to deal with domestic violence, time off for legal proceedings is addressed by the Penal Law. It is illegal for an employer to take any adverse action against an employee who is a victim of a crime for taking time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection.⁶²

Unemployment insurance benefits.

If a victim must leave a job because of domestic violence, he or she is not necessarily barred from receiving unemployment insurance benefits. Circumstances related to domestic violence may be “good cause” for voluntarily quitting a job. Also, job performance problems related to domestic violence (such as absenteeism or tardiness) will not necessarily bar benefits.⁶³

Further information and support.

Dealing with domestic violence requires professional assistance. Domestic violence can be a dangerous or life-threatening situation for the victim and others who may try to become involved. Both victims and employers may contact the NYS Office for the Prevention of Domestic Violence for further information.

PREGNANCY, CHILDBIRTH AND PARENTAL LEAVE

Discrimination on the basis of pregnancy constitutes discrimination on the basis of sex and familial status. Furthermore, medical conditions related to pregnancy or childbirth must be reasonably accommodated in the same manner as any temporary disability. Parental leave is available to employees on a gender-neutral basis.

Statutory protection.

Discrimination based on sex and familial status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Sex, but not familial status, is a protected class under federal law. Reasonable accommodation of pregnancy-related conditions is required by the Human Rights Law.⁶⁴ There is no similar requirement under federal law, unless the pregnancy-related condition meets the definition of “disability” under federal law. Also,

⁶² N.Y. Penal Law § 215.14.

⁶³ N.Y. Labor Law § 593.

⁶⁴ Human Rights Law § 296.3(a).

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the federal Family Medical Leave Act and the New York State Paid Family Leave Act (where these are applicable) may entitle an employee leave. (See above: [Family Medical Leave Act and Paid Family Leave.](#))

Pregnancy discrimination.

No decision regarding hiring, firing or the terms, condition and privileges of employment may be based on the fact that an applicant or employee is pregnant or has recently given birth. A pregnant individual may not be compelled to take a leave of absence unless pregnancy prevents that individual from performing the duties of the job in a reasonable manner.⁶⁵ Disability discrimination may also be implicated where discrimination is based on limitations or perceived limitations due to pregnancy.

Reasonable accommodation of pregnancy-related conditions.

Any medical condition related to pregnancy or childbirth that does prevent the performance of job duties entitles the individual to reasonable accommodation, including time off consistent with the medical leave policies applicable to any disability. The mere fact of being pregnant does not trigger the requirement of accommodation. But, any condition that “inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques”⁶⁶ must be accommodated, when necessary, to allow the employee to perform the essential functions of the job.

An agency may require a doctor’s note to substantiate the request but must maintain the confidentiality of an employee’s medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the pregnancy-related condition, or that is otherwise necessary for consideration of the accommodation.⁶⁷ (See above: [Disability.](#))

While pregnancy-related conditions are treated as temporary disabilities for purposes of applying existing regulations under the Human Rights Law, pregnancy-related conditions need not meet any definition of disability to trigger an employer’s obligation to accommodate under the law. Any medically-advised restrictions or needs related to pregnancy will trigger the need to accommodate, including such things as the need for extra bathroom breaks, or increased water intake.

Parental leave.

Any parent of a newborn child, a newly adopted child, or a sick child is entitled to available child care leave without regard to the sex of the parent. Only the woman who gives birth, however, is entitled to any medical leave associated with pregnancy, childbirth and recovery.

⁶⁵ Human Rights Law § 296.1(g) and § 296-c(2)(e).

⁶⁶ Human Rights Law § 292.21-f.

⁶⁷ Human Rights Law § 296.3.

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In general, the State as an employer cannot take adverse action against employees who take qualifying medical leave for the birth or adoption of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the federal Family and Medical Leave Act.⁶⁸ The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a calendar year.

PRIOR ARREST RECORDS, YOUTHFUL OFFENDER ADJUDICATIONS AND SEALED RECORDS

It is an unlawful discriminatory practice for an employer to make any inquiry about any arrest or criminal accusation of an individual, not then pending against that individual, which has been resolved in favor of the accused or resolved by a youthful offender adjudication or resulted in a sealed conviction. It is unlawful to require any individual to divulge information pertaining to any such arrest or criminal accusation or to take any adverse action based on such an arrest or criminal accusation.

Statutory protection.

This protection is provided by Human Rights Law § 296.16.

What is unlawful?

It is generally unlawful to ask an applicant or employee whether he or she has ever been arrested or had a criminal accusation filed against him or her. It is also generally unlawful to inquire about youthful offender adjudications or sealed records. It is **not** unlawful to ask if a person has any currently pending arrests or accusations. It is also not unlawful to inquire about convictions. (See below: [Previous Conviction](#).)

It is generally unlawful to require an individual to divulge information about the circumstances of an arrest or accusation no longer pending. In other words, the employer cannot demand information from the individual accused in order to “investigate” the circumstances behind an arrest. It is **not** unlawful to require an employee to provide information about the outcome of the arrest, i.e. to demonstrate that it has been terminated in favor of the accused. The agency may be able to take action against an employee for the conduct that led to the arrest but Human Rights Law §296.16 provides that no person “shall be required to divulge information” pertaining to the arrests resolved as set out below.

Pending arrest or accusation.

As long as an arrest or criminal accusation remains pending, the individual is not protected. The agency may refuse to hire or may terminate or discipline the employee

⁶⁸ 29 U.S.C. § 2601 et seq.

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in accordance with applicable law or collective bargaining agreement provisions. The agency may also question the employee about the pending arrest or accusation, the underlying circumstances, and the progress of the matter through the criminal justice system.

However, if the employee is arrested while employed, is not terminated by the employer, and the arrest is subsequently terminated in favor of the employee, the employee then becomes protected. After a favorable termination, the employer cannot initiate an adverse action against the employee based on the arrest and cannot question the employee about the matter. The employer can require that the employee provide proof of the favorable disposition in a timely manner.

What specific circumstances are protected?

The arrest or criminal accusation must have been:

- dismissed, pursuant to Criminal Procedure Law § 160.50;
- disposed of as a youthful offender adjudication, pursuant to Criminal Procedure Law § 720.35;
- resulted in a conviction for a violation, which was sealed pursuant to Criminal Procedure Law § 160.55; or
- resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.58 or § 160.59.

Sealed records.

Whether or not a record is sealed is a factual question. Many records that could be sealed are not in fact sealed. Sealing a record requires that the court specifically order that the record be sealed. The applicant or employee is responsible to know the status of a sealable conviction. If it is not in fact sealed, then it is a conviction record that can be required to be disclosed. (See below: [Previous Conviction](#).)

Exceptions.

The Human Rights Law explicitly states that arrest inquiries, requests for information, or adverse actions may be lawful where such actions are “specifically required or permitted by statute.”⁶⁹

These provisions do not apply to an application for employment as a police officer or peace officer.⁷⁰

The provisions do not fully apply to an application for employment or membership in any law enforcement agency. For those positions, arrests or criminal accusations that are dismissed pursuant to Criminal Procedure Law § 160.50 may not be subject to inquiry, demands for information, or be the basis of adverse action. However, the other types of

⁶⁹ Human Rights Law § 296.16; see e.g. Civil Service Law § 50(4).

⁷⁰ Police and peace officer as defined in Criminal Procedure Law §§ 1.20 and 2.10, respectively.

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terminations (youthful offender adjudication or sealed convictions) may be inquired into and taken into consideration for jobs with law enforcement agencies.

PREVIOUS CONVICTION RECORDS

It is unlawful to deny any license or employment, to refuse to hire, or terminate, or take an adverse employment action against an applicant or employee, by reason of his or her having been convicted of one or more criminal offenses, if such refusal is in violation of the provisions of Article 23-A of the Correction Law. The Correction Law provides the standards to be applied and factors to be considered before an employment decision may be based on a previous conviction, including the factor that it is the public policy of the State of New York to encourage the licensure and employment of those with previous criminal convictions

Statutory protection.

This protection is provided by Human Rights Law § 296.15, in conjunction with Article 23-A of the N.Y. Correction Law.

Factors from the Correction Law.

The Correction Law provides that an employer may not refuse to hire, or terminate an employee, or take an adverse employment action against an individual, because that individual has been previously convicted of one or more criminal offenses, or because of a belief that a conviction record indicates a lack of "good moral character," **unless** either there is a direct relationship between one or more of the previous criminal offenses and the specific employment sought or held, or employment of the individual would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.⁷¹

In order to determine whether there is either a direct relationship or unreasonable risk (as mentioned above), the employer must apply the factors set forth in the Correction Law, as follows:

- (a) The public policy of this State, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

⁷¹ N.Y. Correction Law § 752.

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- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.⁷²

Also, in making the determination, the employer must give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the individual, which creates a presumption of rehabilitation in regard to any offense specified in the certificate.⁷³

The factors must be applied on a case-by-case basis and each of the factors must be considered. The employing agency must take into account the individual's situation by analyzing factors (d) through (g) and must also analyze the specific duties and responsibilities of the job pursuant to factors (b), (c) and (h). If any additional documentation is needed, it must be requested of the applicant or employee before any adverse determination is made. A justification memorandum that merely tracks the statute but without rational application of the factors to the facts of the case may lead to a finding that an adverse determination was arbitrary and capricious.

Conviction must be “previous.”

Individuals are protected for *previous* convictions. A conviction that occurs during employment does not entitle the individual to these protections.

Inquiries and misrepresentation.

Unlike many other areas covered by the Human Rights Law, an employer is not prevented from asking an individual to disclose prior convictions as part of the employment application process or at any time during employment.

If the employer learns at any time that that an applicant or employee has made a misrepresentation with regard to any previous conviction, it may be grounds for denial or termination of employment.⁷⁴

Interaction with the arrest provisions.

The arrest provisions⁷⁵ of the Human Rights Law interact with the conviction provisions. Although it is *lawful to ask* about previous convictions, it is *unlawful to ask* about

⁷² N.Y. Correction Law § 753.1.

⁷³ N.Y. Correction Law § 753.2.

⁷⁴ N.Y. Correction Law § 751; see also Civil Service Law section 50(4).

⁷⁵ Human Rights Law § 296.16.

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previous arrests resolved in an individual's favor, or about youthful offender adjudications, or about convictions that have been sealed pursuant to Criminal Procedure Law § 160.55 or § 160.58. If any individual with a youthful offender record or a sealed conviction states that he or she has no previous convictions, this is not a misrepresentation. The employer is not entitled to any information about youthful offender records or sealed convictions. (See above: [Prior Arrest.](#))

Enforcement only by court action.

A State employee or an applicant for State employment cannot file a complaint with the Division of Human Rights regarding previous conviction. An individual can pursue enforcement under the Human Rights Law only by filing an Article 78 proceeding in State Supreme Court.⁷⁶ However, State employees may file complaints with respect to the Prior Arrest provisions of the Human Rights Law with the Division of Human Rights. (See above: [Prior Arrest.](#))

Exceptions.

It is not unlawful to discriminate if, upon weighing the factors set out above, the previous criminal offense bears a direct relationship to the job duties, or if employment of the individual would involve an unreasonable risk to safety or welfare, as explained in more detail above.

An individual may be required to disclose previous convictions, unless they are sealed, as explained in more detail above.

These protections do not apply to "membership in any law enforcement agency."⁷⁷

GENDER IDENTITY

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's gender identity, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Gender identity" means an individual's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex or gender assigned to an individual at birth.

⁷⁶ N.Y. Correction Law § 755.1.

⁷⁷ N.Y. Correction Law § 750.5.

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A transgender person is an individual who has a gender identity different from the sex assigned to that individual at birth.

Gender dysphoria is a recognized medical condition related to an individual having a gender identity different from the sex assigned at birth.

Statutory protection.

Gender identity is protected under the Human Rights Law as gender identity may form the basis of sex and disability discrimination claims. These protections are explained in regulations promulgated by the Division of Human Rights.⁷⁸ Gender identity discrimination may also be considered sex discrimination under federal law.

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 33,⁷⁹ which prohibits discrimination in employment by executive branch agencies on the basis of gender identity.

What protection against discrimination is provided by Executive Order?

The Executive Order seeks to root out employment discrimination on the basis of gender identity in order to help attract and retain competent and effective employees.

No State agency, employee or agent thereof, shall discriminate on the basis of gender identity against any individual in any matter pertaining to employment by the State including, but not limited to, hiring, termination, retention, job appointment, promotion, tenure, recruitment, compensation and benefits, and other terms and conditions of employment. Under the Executive Order, harassment and retaliation based on gender identity are also prohibited. (See below: [Harassment](#) and [Retaliation](#).) All complaints alleging harassment and retaliation under Executive Order 33 can be made under an agency's internal discrimination complaint procedure.

The prohibition on gender identity discrimination extends to actions based upon an individual's actual or perceived gender identity. While gender identity discrimination can take many forms, it includes, but is not limited to, unwelcome verbal or physical conduct, such as derogatory comments, jokes, graffiti, drawings or photographs, touching, gestures, or creating or failing to remedy a hostile work environment.

What protection against discrimination is provided by the Human Rights Law?

The term "sex" when used in the Human Rights Law includes gender identity and the status of being transgender and either basis is sex discrimination. Harassment on either basis qualifies as sexual harassment. (See above: [Sex Stereotyping](#).)

⁷⁸ 9 N.Y.C.R.R. § 466.13

⁷⁹ Issued by Gov. David A Paterson on December 16, 2009.

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The term “disability” when used in the Human Rights Law includes gender dysphoria or other condition meeting the definition of disability in the Human Rights Law and discrimination on that basis is disability discrimination. Refusal to provide reasonable accommodation for persons with gender dysphoria, where requested and necessary, and harassment of persons with gender dysphoria are also disability discrimination. (See above: [Disability](#).)

GENERAL PROHIBITIONS

Harassment

Harassment that creates a hostile work environment, based on the protected categories discussed in this Handbook, is unlawful pursuant to the Human Rights Law. (See above: [Sexual Harassment](#).) State employees and interns are entitled to a work environment which promotes respect for all, and actions that demonstrate bias, harassment, or prejudice will not be tolerated.

Harassment consists of words, signs, jokes, pranks, intimidation or physical violence that is directed at an employee or intern because of his or her membership in any protected class, or perceived class. It also includes workplace behavior that is offensive and based on stereotypes about a particular protected group, or which is intended to cause discomfort or humiliation on the basis of protected class membership.

Harassment is unlawful when it becomes severe or frequent enough to alter the terms or conditions of an individual’s employment or internship.

Appropriate supervision is not harassment.

Normal workplace supervision, such as enforcing productivity requirements, requiring competent job performance, or issuing disciplinary warnings or notices, is **not** harassment. If these actions are imposed on the basis of protected class membership, then this may be discrimination in the terms, condition or privileges of employment.

Harassment by a non-employee.

The employing agency has the duty to prevent harassment in the workplace including harassment by non-employees, such as vendors, consultants, clients, customers, visitors or interns.

Harassment of non-employees.

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment by Human Rights Law § 296-d.

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In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

Harassment must be reported.

The employing agency is not responsible for harassment by co-workers or non-employees, unless the agency knows about the harassment and fails to take appropriate steps to correct the situation. Harassment should be reported to a supervisor, manager, human resources officer, or EEO officer. The individual who reports harassment, or who is experiencing the harassment, needs to cooperate with any investigation into the harassment so that a full and fair investigation can be conducted, and any necessary remedial action can be promptly undertaken.

An employee with supervisory responsibility has a duty to report harassment that he or she observes or otherwise knows about. A supervisor who has received a report of harassment from an employee or intern has a duty to report it to management, even if the employee or intern who complained has asked that it not be reported. Any harassment or potential harassment that is observed must be reported, even if no one is complaining about it.

Harassment must be investigated and appropriate corrective action taken.

The employer has the duty to investigate any report of harassment. If it is determined that the harassing behavior is occurring, the employing agency has a duty to take prompt and effective corrective action to stop the harassment and take such other steps as are appropriate.

Unlawful Inquiries

It is an unlawful discriminatory practice for an employer to print, circulate, or use any form of application, or to make any inquiry which expresses directly or indirectly, any limitation, specification or discrimination as to any protected class, unless based upon a bona fide occupational qualification.⁸⁰

Even if an inquiry is not asked with the apparent intent to express a limitation, it can become evidence of discriminatory intent in a subsequent action, by creating an appearance of discriminatory motivation. Those interviewing candidates for State positions or promotions should exercise extreme caution so as not to ask any unnecessary question or make any comment that could be interpreted as expressing a discriminatory motivation. This is simply a good employment practice.

Information gathered in furtherance of an affirmative action plan may be lawful, so long as the affirmative action is pursued in a lawful manner (which is beyond the scope of

⁸⁰ Human Rights Law § 296.1(d) and § 296-c(2)(c).

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this booklet). Information on protected class membership which is collected for statistical purposes should be retained separately from a candidate's other information.

Retaliation

Retaliation by an employer is unlawful pursuant to the Human Rights Law and the Civil Service Law.⁸¹ The federal statutes mentioned in this handbook also prohibit retaliation.

The Human Rights Law protects any individual who has filed a complaint, testified or assisted in any proceeding under the Law, as well as one who has opposed any practices forbidden by the Law. Even if the practices the individual has opposed are not in fact a violation of the Human Rights Law, the individual is protected if he or she had a good faith belief that the practices were unlawful.

Division or court proceedings.

A complainant or witness is absolutely protected against retaliation for any oral or written statements made to the Division or a court in the course of proceedings, regardless of the merits or disposition of the underlying complaint.

Opposing discriminatory practices.

Opposing discriminatory practices includes filing an internal complaint of discrimination with the employing agency or reporting discriminatory actions to a supervisor or other appropriate person, either verbally or in writing. It also includes complaining that another person's rights under the Law were violated or encouraging a fellow employee to report unlawful discriminatory practices.

However, behaving inappropriately towards a person deemed to be engaged in discrimination or harassment does not constitute protected opposition to unlawful practices. Employees should instead complain to a supervisor, manager, human resources officer, or EEO officer.

There is no protection for a person who opposes practices the person finds merely distasteful or wrong, despite having no reasonable basis to believe those practices were in violation of the Law or State policy. Furthermore, the retaliation provision is not intended to protect persons making false charges of discrimination.

Adverse employment action.

Retaliation occurs when an adverse action or actions is taken against the employee by the employer. The action need not be job-related or occur in the workplace. Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable worker from making or supporting a charge of discrimination.

⁸¹ Human Rights Law § 296.7; see also Civil Service Law § 75-B, which gives protection to "whistleblowers."

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

An adverse action is not retaliatory merely because it occurs after the employee engaged in protected activity. Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity. In order to make a claim of retaliation, the individual must be able to substantiate the claim that the adverse action was retaliatory.

Interns

Paid interns are employees, and all provisions relating to employees explained in this document apply to paid interns. Unpaid interns are explicitly protected by Human Rights Law § 296-c, and are entitled to the same protections as employees, in most areas, wherever § 296-c is referenced in the sections above.

Unpaid interns are protected from discrimination in hiring, discharge, or the terms, conditions or privileges of employment as an intern because of the intern's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status. Unpaid interns are also explicitly protected from harassment.

Political Activities

The Civil Service Law provides that no appointment or selection or removal from employment shall relate to the political opinions or affiliations of any person. No person in the civil service of the State is under any obligation to contribute to any political fund or render any political service and no person shall be removed or otherwise prejudiced for refusing to do so. No person in the civil service shall discharge or promote or reduce or in any manner change the rank or compensation of another for failing to contribute money or any other valuable thing for any political purpose. No person in the civil service shall use his or her official authority or influence to coerce the political action of any person or body or to interfere with any election.⁸² This law is enforced by the New York State Joint Commission on Public Ethics. Complaints regarding this provision should not be filed with the Division of Human Rights.

Diversity

New York State is committed to a nondiscriminatory employment program designed to meet all the legal and ethical obligations of equal opportunity employment. Each department develops affirmative action policies and plans to ensure compliance with equal opportunity laws. To assist in building cooperative work environments, which

⁸² Civil Service Law § 107.

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welcome an increasingly diverse workforce, the Department of Civil Service Staffing Services Division, and courses on diversity in the workplace, are available to agencies through the Governor's Office of Employee Relations (GOER). Contact your personnel office for more information about specific agency affirmative action policies and plans. Diversity training information is available under Training & Development on the GOER website at www.goer.ny.gov.

Reporting Discrimination Complaints Internally

As noted throughout this Handbook, any employee who has been subjected to any discrimination, bias, prejudice, harassment or retaliation, based on any of the protected classes covered by the Handbook, should promptly report the matter to his or her supervisor or manager, to the agency's human resources department, or to the Equal Opportunity Officer (also referred to as Affirmative Action Officer) assigned to the agency.

Each agency has policies and procedures in place to respond to such complaints and can advise employees as to appropriate steps to take pursuant to the agency's procedures. All agency procedures are designed to ensure that the State's anti-discrimination policies are followed, including the State's policies forbidding retaliation, as set out above. All agency procedures provide for a prompt and complete investigation as to the complaint of discrimination, and for prompt and effective remedial action where appropriate. These policies and procedures, and discrimination complaint form, should be available on your agency's intranet site or employee handbook. If you cannot locate them, please contact your supervisor or manager, the agency's human resources department, or the EEO officer assigned to the agency and they will assist you in obtaining this information.

Pursuing Discrimination Complaints Externally

Agency policies and procedures are intended to address all complaints of discrimination within the agency. They are not intended to satisfy, replace or circumvent options available to employees through negotiated union contracts; federal, state or other civil rights enforcement agencies; and/or the judicial system. Thus, the use of these internal complaint procedures will not suspend any time limitations for filing complaints set by law or rule and will not fulfill any other requirements set by law or rule.

Employees are not required to pursue their agency's internal complaint procedure before filing a complaint with any agency or with a court, based on federal or state or local law (though as mentioned previously, an agency may not be held responsible for harassment by coworkers if it was not made aware of the harassment).

Listed throughout the Handbook are citations to the various laws that pertain to discrimination. Employees may be able to file complaints pursuant to these laws with administrative agencies and/or in court. There may also be additional remedies

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available to employees, and employees may wish to seek an attorney's advice prior to determining appropriate steps to take.

The following agencies can provide information to employees and receive and investigate complaints of employment discrimination pursuant to the New York State Human Rights Law (State Division of Human Rights) or Title VII, ADEA, ADA or GINA (U.S. Equal Employment Opportunity Commission).

- New York State Division of Human Rights (“SDHR”)
Website: www.dhr.ny.gov
Telephone: (888)392-3644
TTY number: (718)741-8300
- United State Equal Employment Opportunity Commission (“EEOC”)
Website: www.eeoc.gov
Telephone: (800)669-4000
TTY number: (800)669-6820

NOTE

This Handbook has been prepared for the general information of State employees as a summary of the various federal and state laws, executive orders, and policies that provide protection from discrimination for State employees and comprises the anti-discrimination policy of the State of New York. Employees should also refer to specific laws and executive orders, together with any employee manual and policies of their employing agency for any additional policies and protections that may apply to them.

This Handbook does not grant any legal rights to any employee, nor is it intended to bind the State in any way. Where there is a conflict between any law, regulation, order, policy or collective bargaining agreement and the text of this Handbook, such law, regulation, order, policy or agreement shall be controlling.

The State reserves the right to revise, add to, or delete any portion of this Handbook at any time, in its sole discretion, without prior notice to employees. Moreover, this Handbook is not intended to, and does not create any right, contractual or otherwise, for any employee, not otherwise contained in the particular law or executive order the Handbook summarizes.

This Handbook has been written so as to not conflict with any collective bargaining agreement that the State has entered into with any union representing its unionized employees. If there is any conflict between this Handbook and any collective bargaining

EMPLOYEE RIGHTS AND RESPONSIBILITIES

agreement, the provisions of the collective bargaining agreement will control. This Handbook shall not constitute a change in any existing term and condition of employment.

From: [REDACTED] Melissa Derosa
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Alphonso David; [REDACTED]
Linda Lacewell [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:39:12 AM
Attachments: ~/Library/SMS/Attachments/50/00/F4BE6AFD-F734-4C7B-A360-
D9938F11A6BF/IMG_3712.jpeg



Lindsey



if you need me.

Delivered

Yesterday 9:07 PM

I don't mind tough days at all. I like very much working hard for the things I believe in. What I really cannot deal with is that kind of call when I've done nothing wrong.

Today 7:36 AM

I'm not sure why Alphonso couldn't pick up the phone or ask me himself. What I said and why I was asking him Alphonso to join the meeting. That's not a team. That's either because he is afraid of me or doesn't respect me. This is after I had already been read the riot act by Jill.



iMessage



From: [REDACTED] Alphonso David
To: [REDACTED] Jill DesRosiers (owner);+[REDACTED] Melissa Derosa; [REDACTED]
Linda Lacewell [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:42:41 AM

I am not doing this. She is certifiably crazy. One day is one person the next day it is someone else.

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:51:09 AM

Oof

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:53:50 AM

She said she would call me today. I will ping her later and see if I can get her focused on moving forward without playing into her drama.

From: [REDACTED] Melissa Derosa
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Alphonso David; [REDACTED]
Linda Lacewell [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:56:40 AM
Attachments: ~/Library/SMS/Attachments/e0/00/17152722-0802-4D39-AA9C-02A8DED84E26/IMG_3714.jpeg



Lindsey

the things I believe in. What I really cannot deal with is that kind of call when I've done nothing wrong.

Today 7:36 AM

I'm not sure why Alphonso couldn't pick up the phone or ask me himself. What I said and why I was asking him Alphonso to join the meeting. That's not a team. That's either because he is afraid of me or doesn't respect me. This is after I had already been read the riot act by Jill.

I'm either actually a part of the team or I'm not. And having the three most senior people call me and bitch me out isn't being part of the team. That's how I feel.



iMessage



From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 07:57:45 AM

Um ... when 3 people are saying the same thing to you who's wrong lol

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner);+[REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 08:49:48 AM

Talked to her

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 08:49:57 AM

Not sure of outcome

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 08:50:06 AM

But she didn't say it's over

From: [REDACTED] Melissa Derosa
To: [REDACTED] Jill DesRosiers (owner); [REDACTED] Alphonso David; [REDACTED]
Linda Lacewell [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 10:57:44 AM

Do we know if she came in?

From: [REDACTED] Jill DesRosiers (owner)
To: [REDACTED] Melissa Derosa;+[REDACTED] Alphonso David;+[REDACTED] Linda
Lacewell [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 07/26/18 11:00:29 AM

She emailed me and asked for my phone number but hasn't called me

From: [REDACTED] Linda Lacewell
To: [REDACTED] Jill DesRosiers (owner);+[REDACTED] Melissa Derosa; [REDACTED]
Alphonso David; [REDACTED]@gmail.com Jill DesRosiers (owner)
TimeStamp: 09/26/18 12:32:55 PM
Attachments: ~/Library/SMS/Attachments/12/02/E43C2808-BA03-4C51-8834-4BA8791C9A0B/IMG_1103.jpeg



Lindsey



Hey there. Got your email.
Can you talk for a minute?
This number fine. Office
[REDACTED]

Delivered

No I can't. I'm very much
troubled. I have to take
some time.

Ok. Please call anytime.



iMessage



I

Yes

We

Q W E R T Y U I O P

A S D F G H J K L

↑ Z X C V B N M [REDACTED]

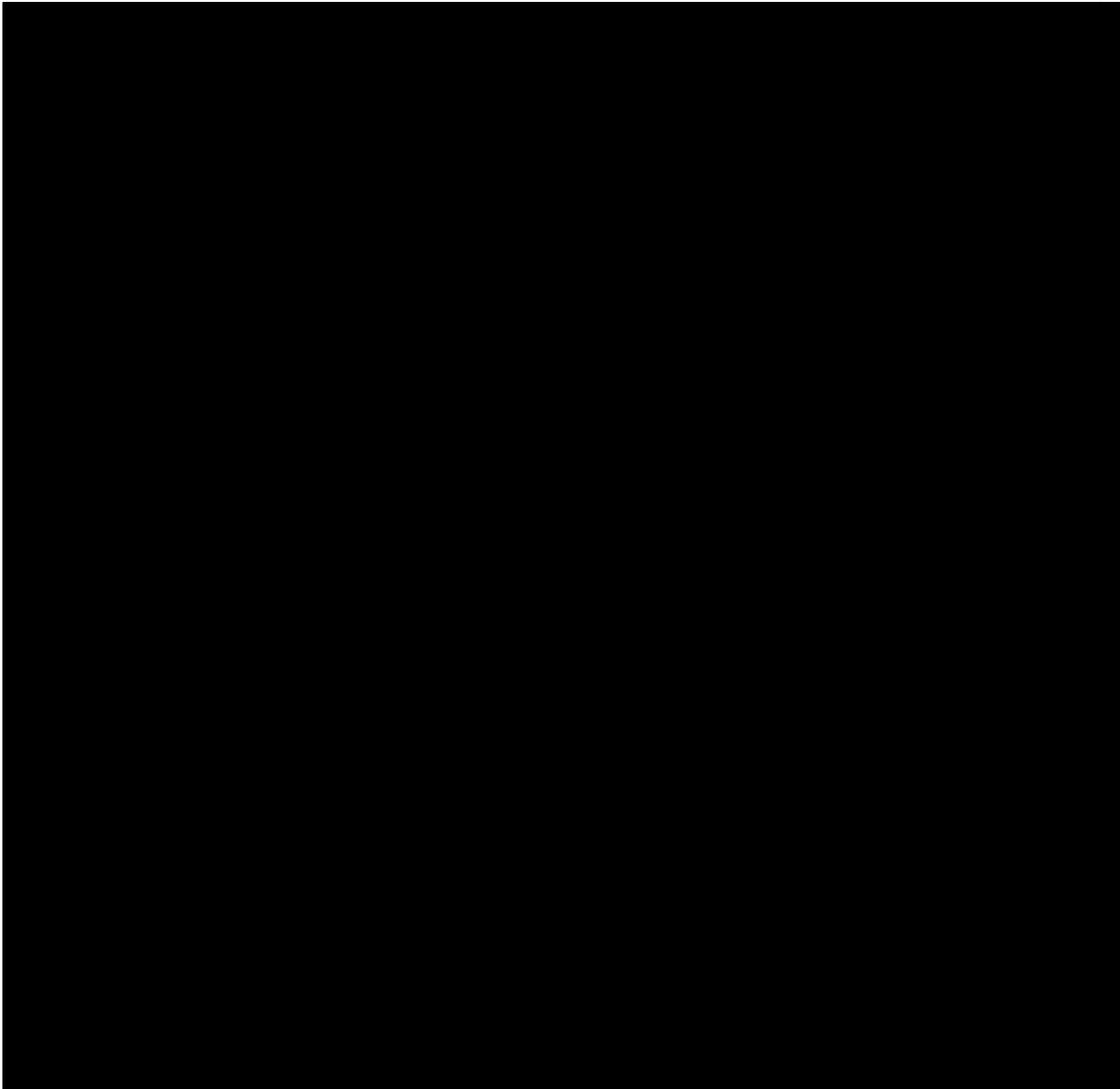
123 [Smiley] [Microphone] space return

Draft/Subject to Change
Privileged & Confidential / Attorney Work Product
Agency Deliberative Communication

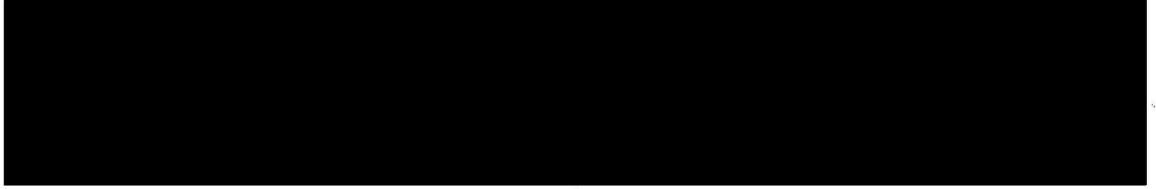
Memorandum

To: Alphonso David, Counsel to the Governor
From: Camille Joseph Varlack, Deputy Director of State Operations,
Chief Risk Officer and Special Counsel
Re: Confidential Personnel Matter
Date: September 20, 2018

On September 20, 2018, I spoke with [REDACTED] and [REDACTED] and [REDACTED]
[REDACTED] and [REDACTED] of Empire State Development (ESD),
respectively. Below please find a summary of my conversation.



Draft/Subject to Change
Privileged & Confidential / Attorney Work Product
Agency Deliberative Communication



Attorney-Client Privilege

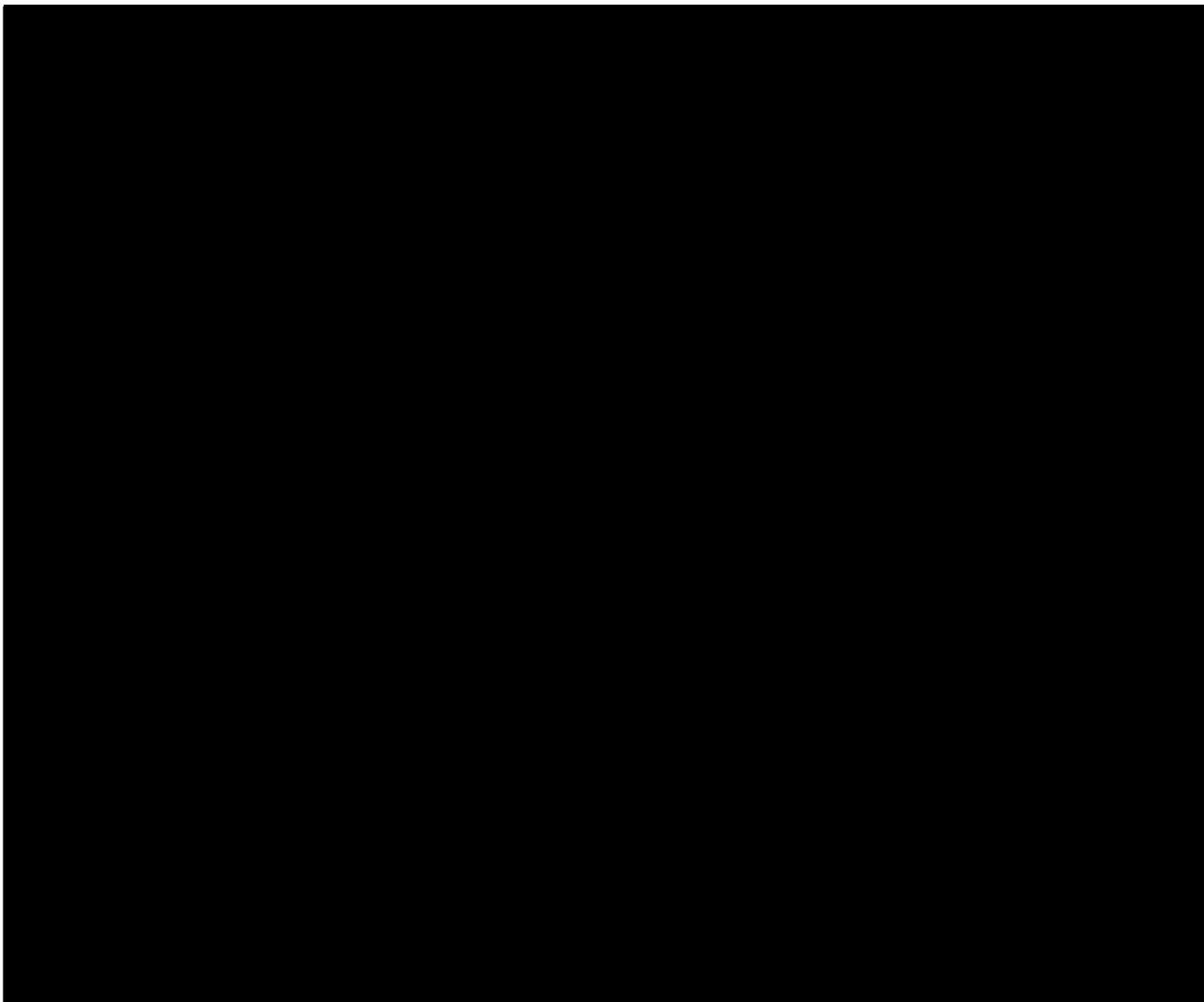
Redacted in original production

Sent from my iPhone

Attorney-Client Privilege

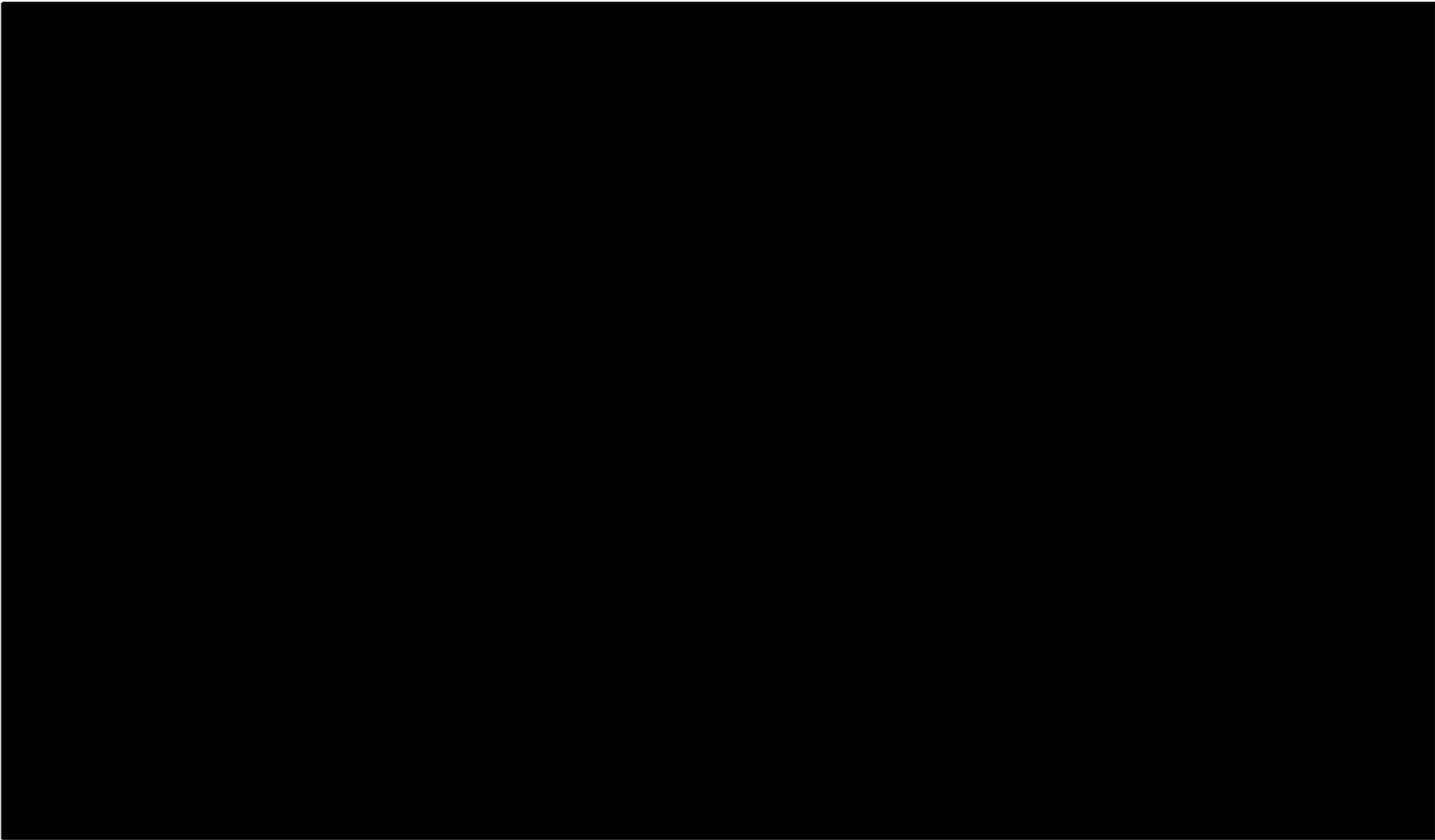
Redacted in Original Production

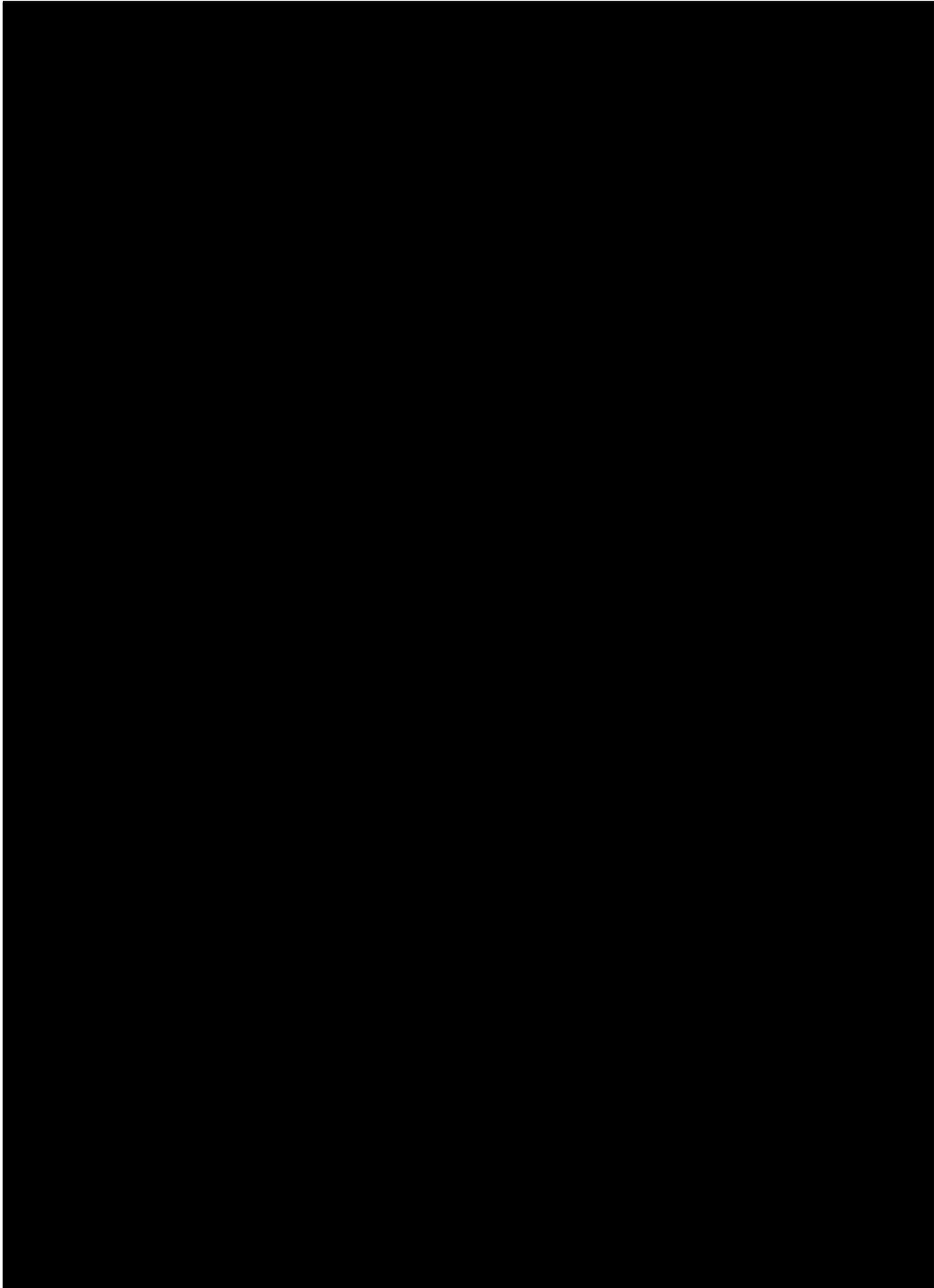
Sent from my iPhone

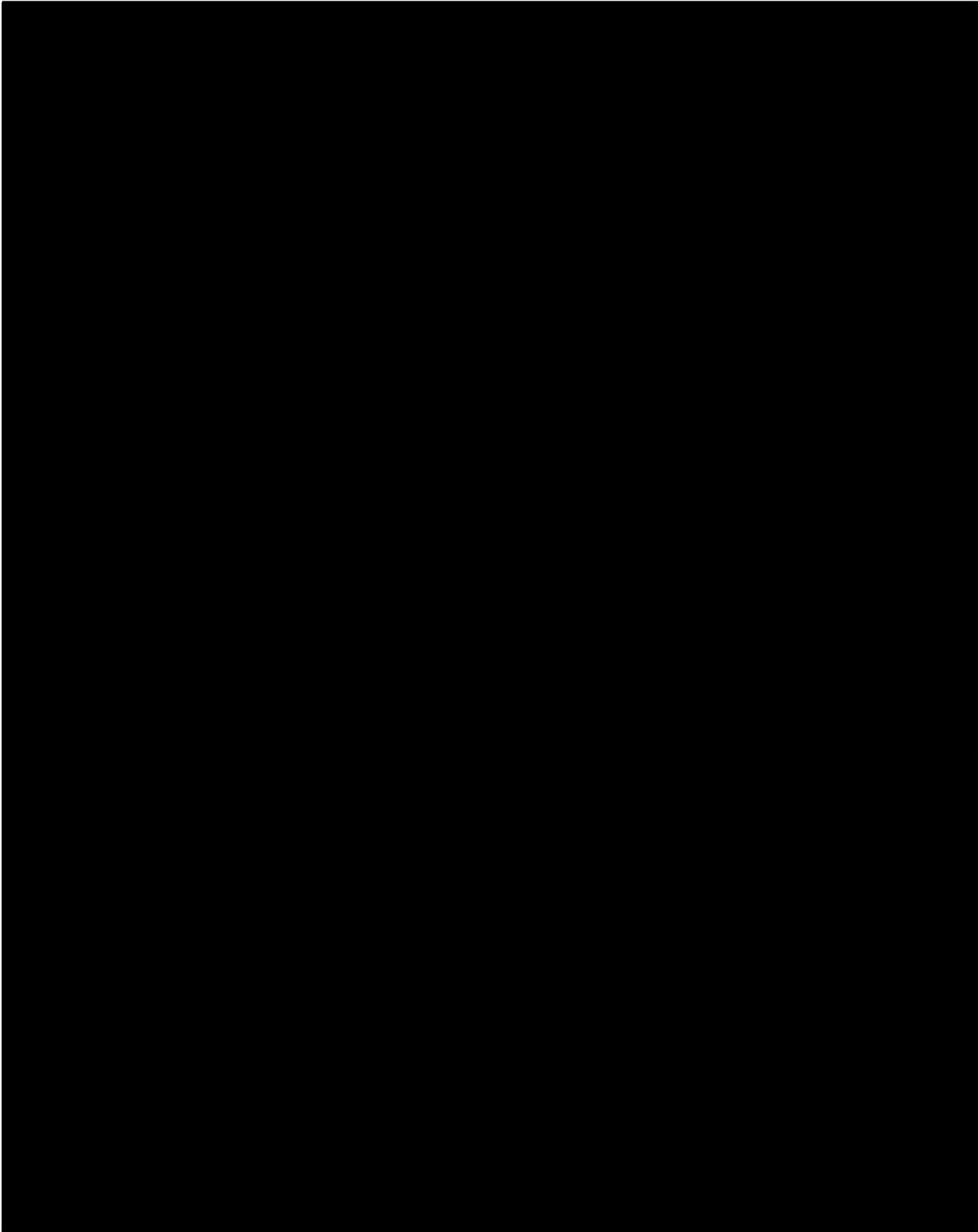


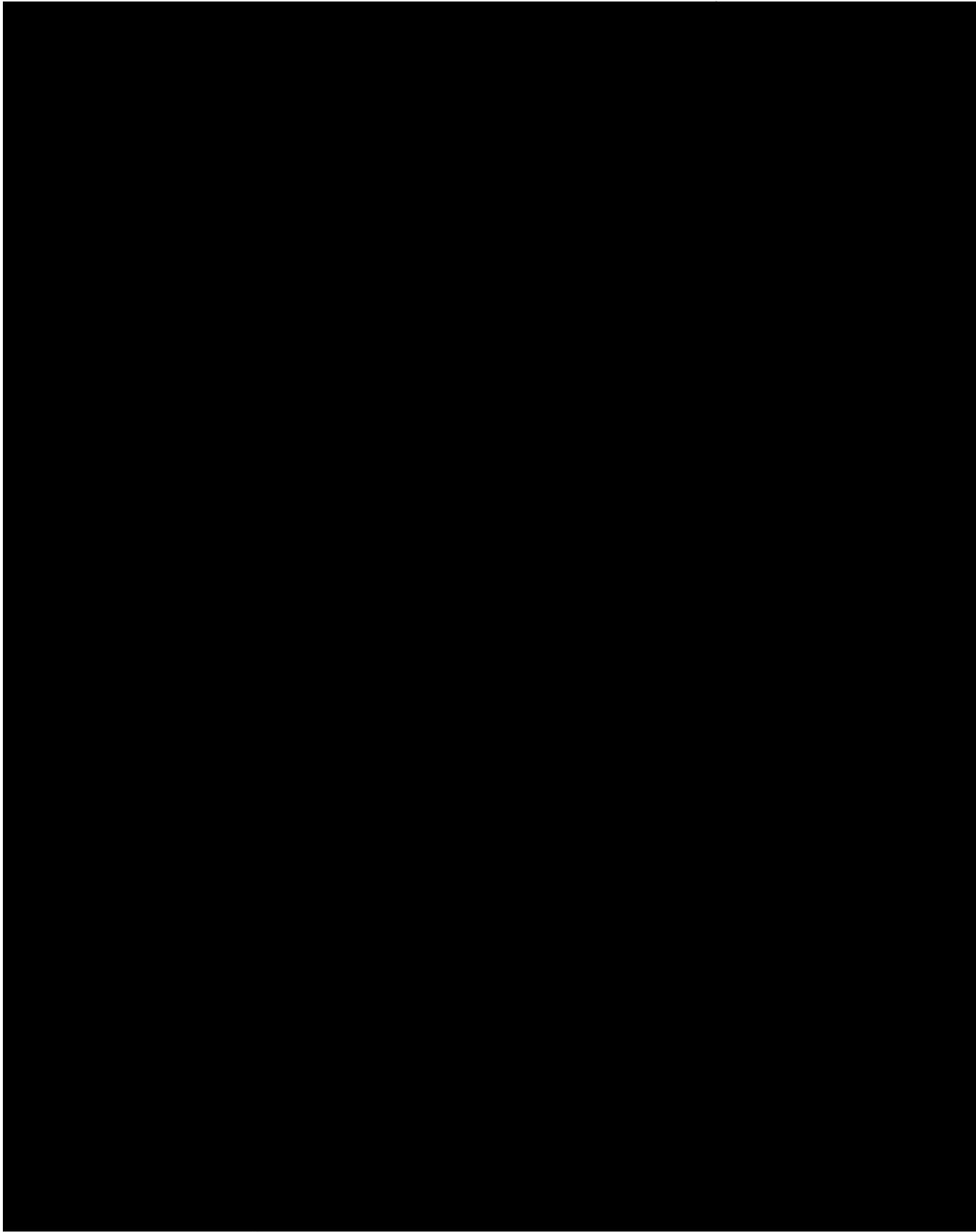
Attorney-Client Privilege

Redacted in Original Production









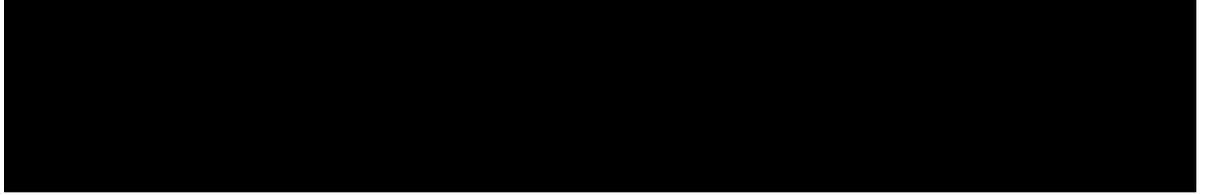
Memorandum

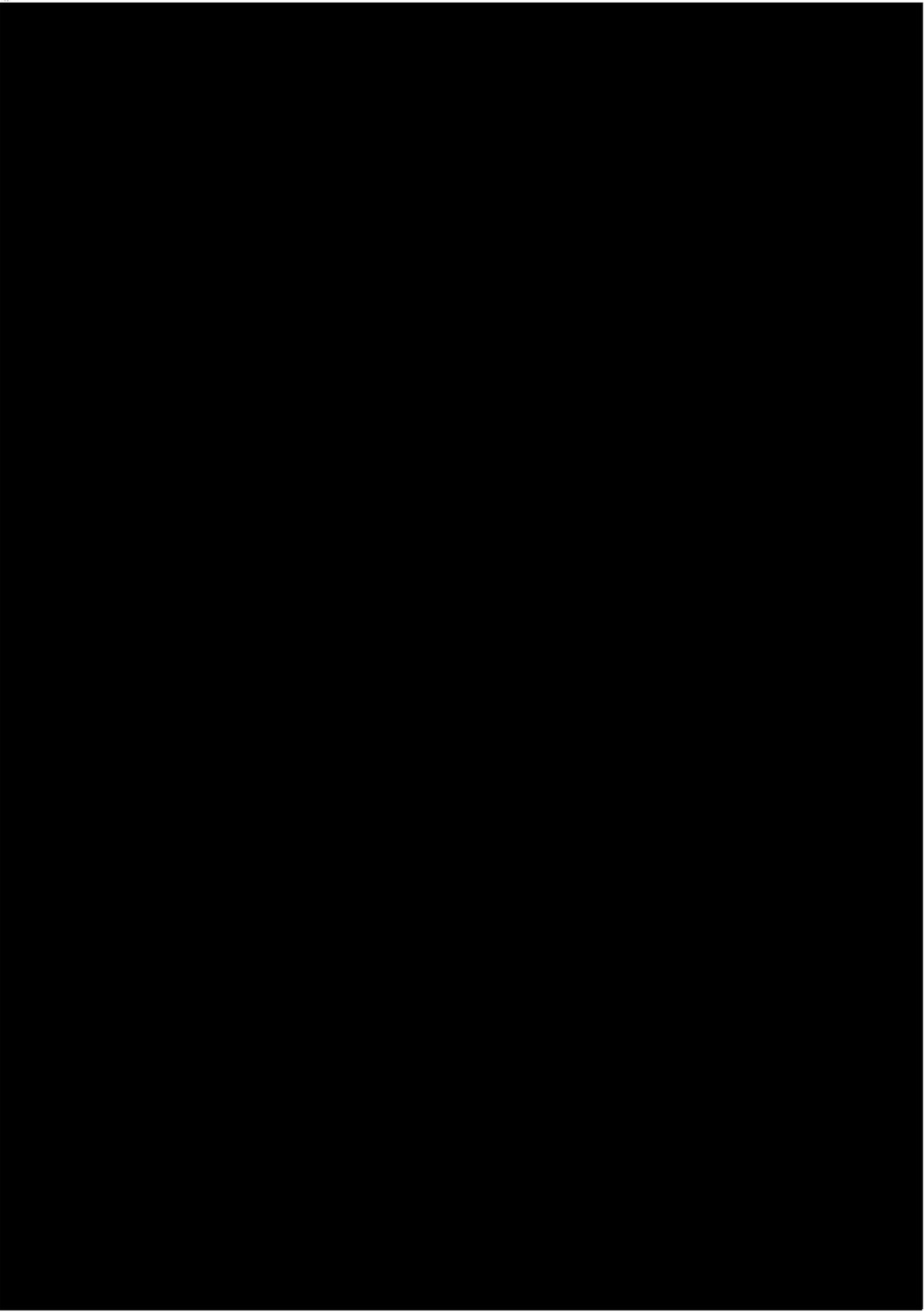
To: Alphonso David, Counsel to the Governor
From: Camille Joseph Varlack, Deputy Director of State Operations,
Chief Risk Officer and Special Counsel
Re: Confidential Personnel Matter
Date: September 20, 2018

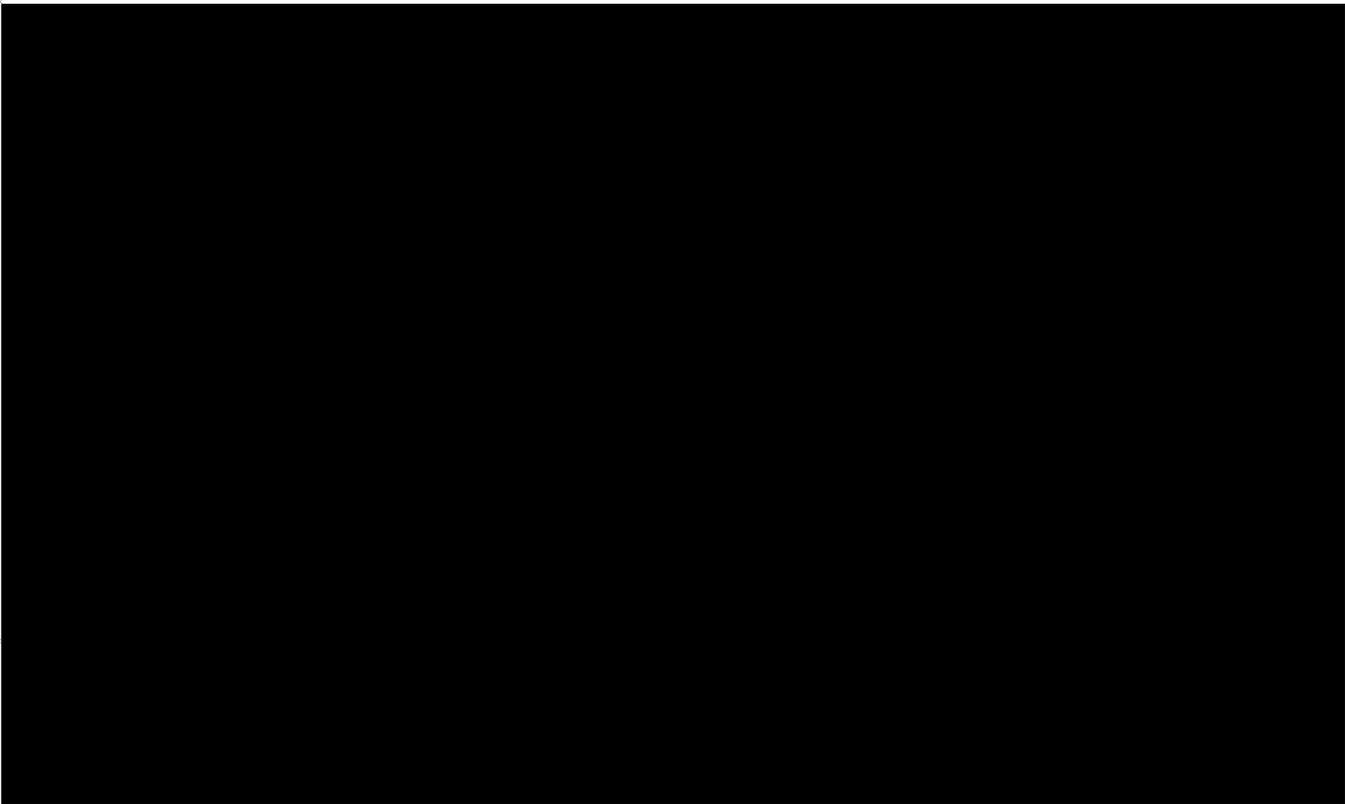
On September 20, 2018, I spoke with [REDACTED] and [REDACTED] and [REDACTED] and [REDACTED], of Empire State Development (ESD), respectively. Below please find a summary of my conversation.

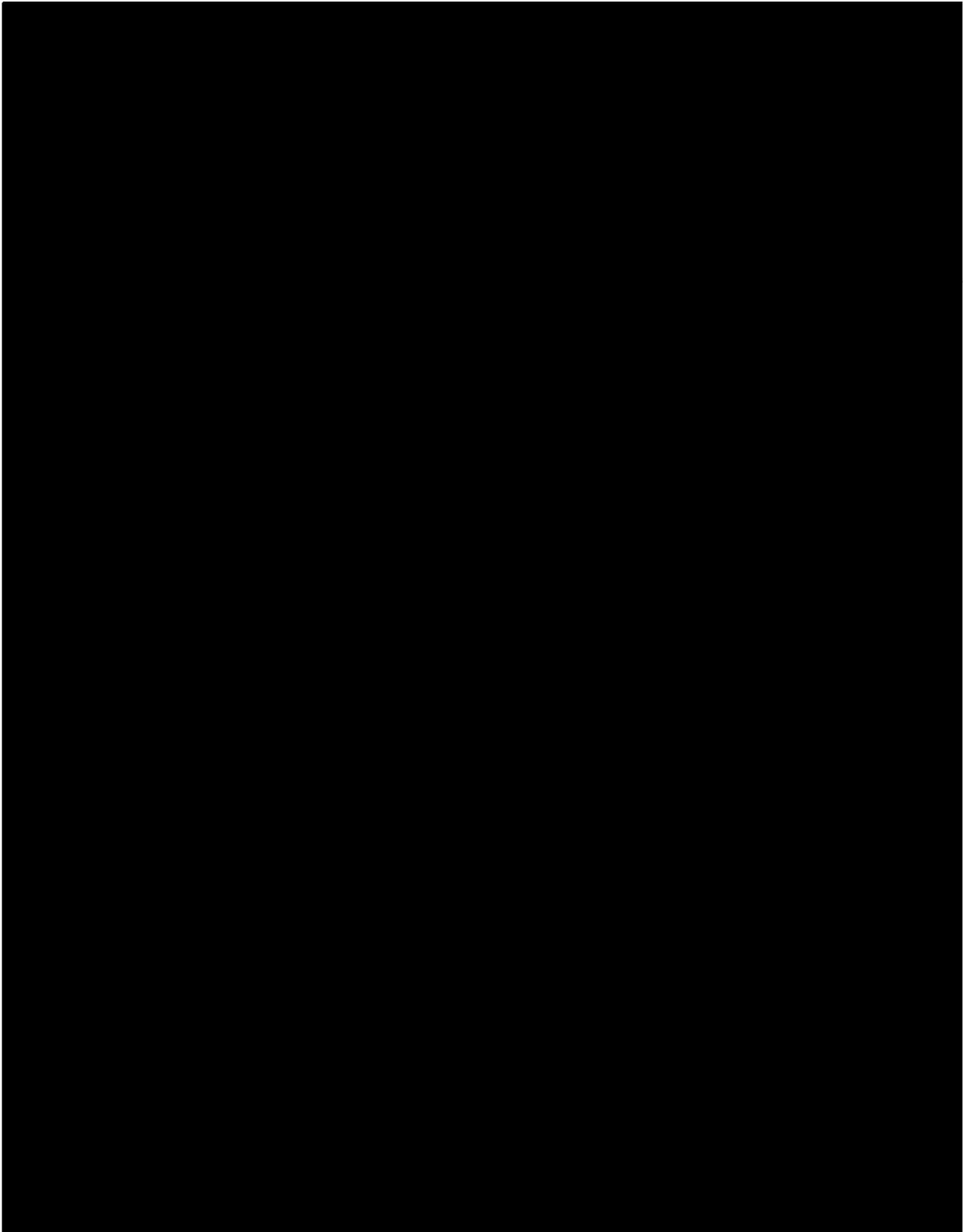


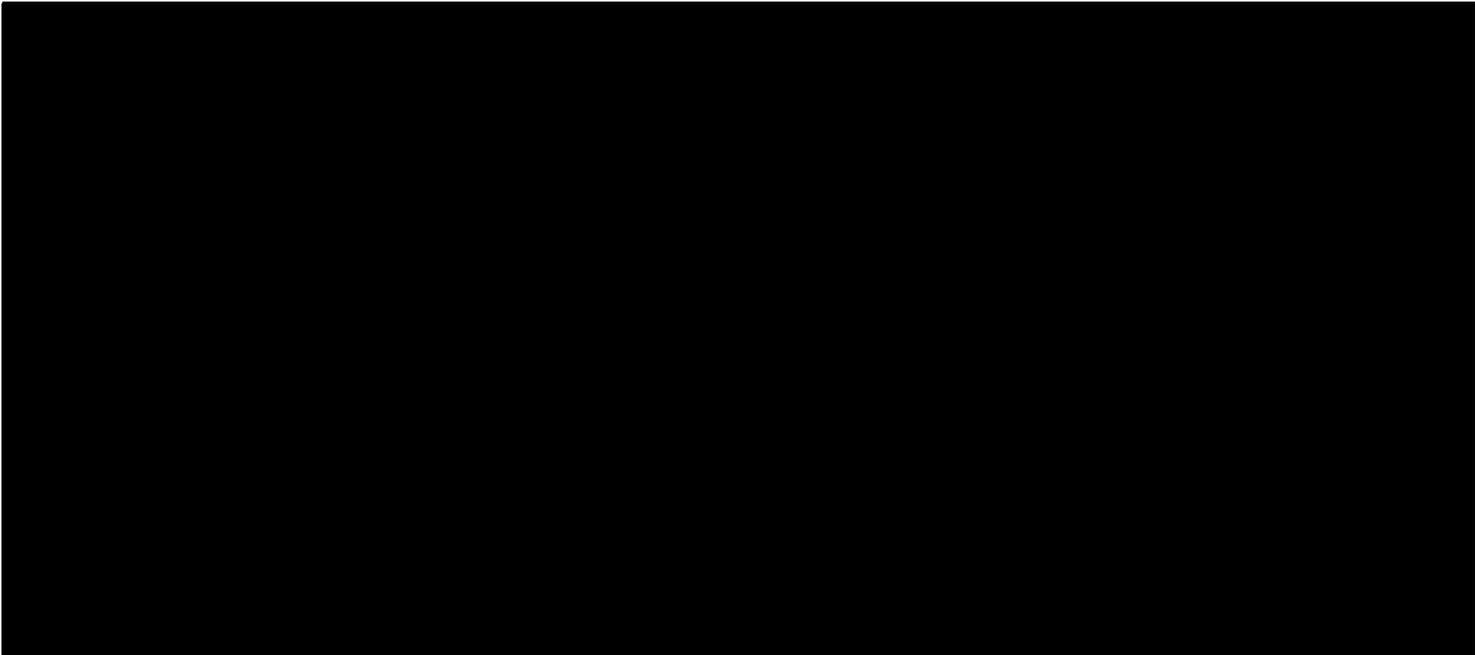
Draft/Subject to Change
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Agency Deliberative Communication

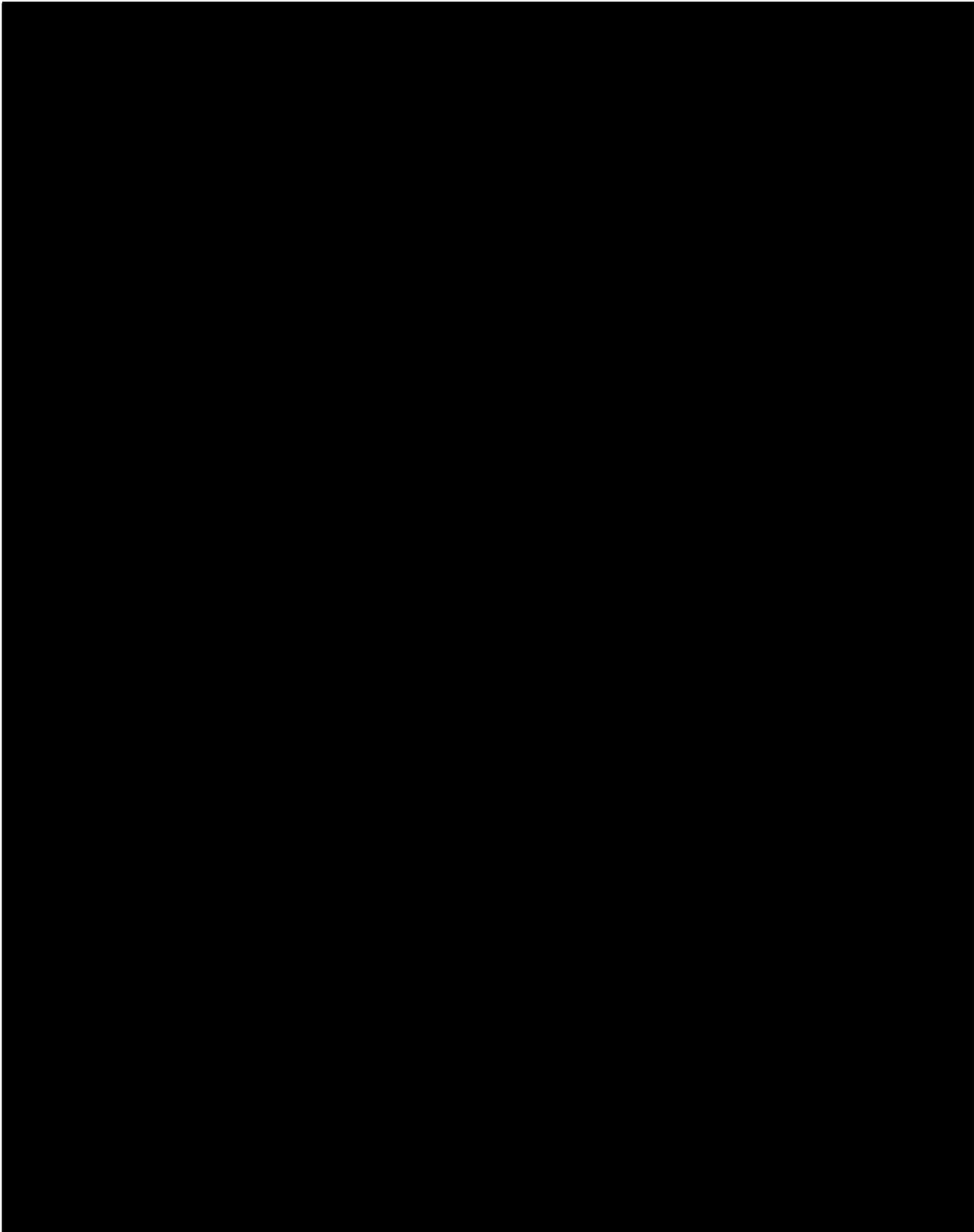


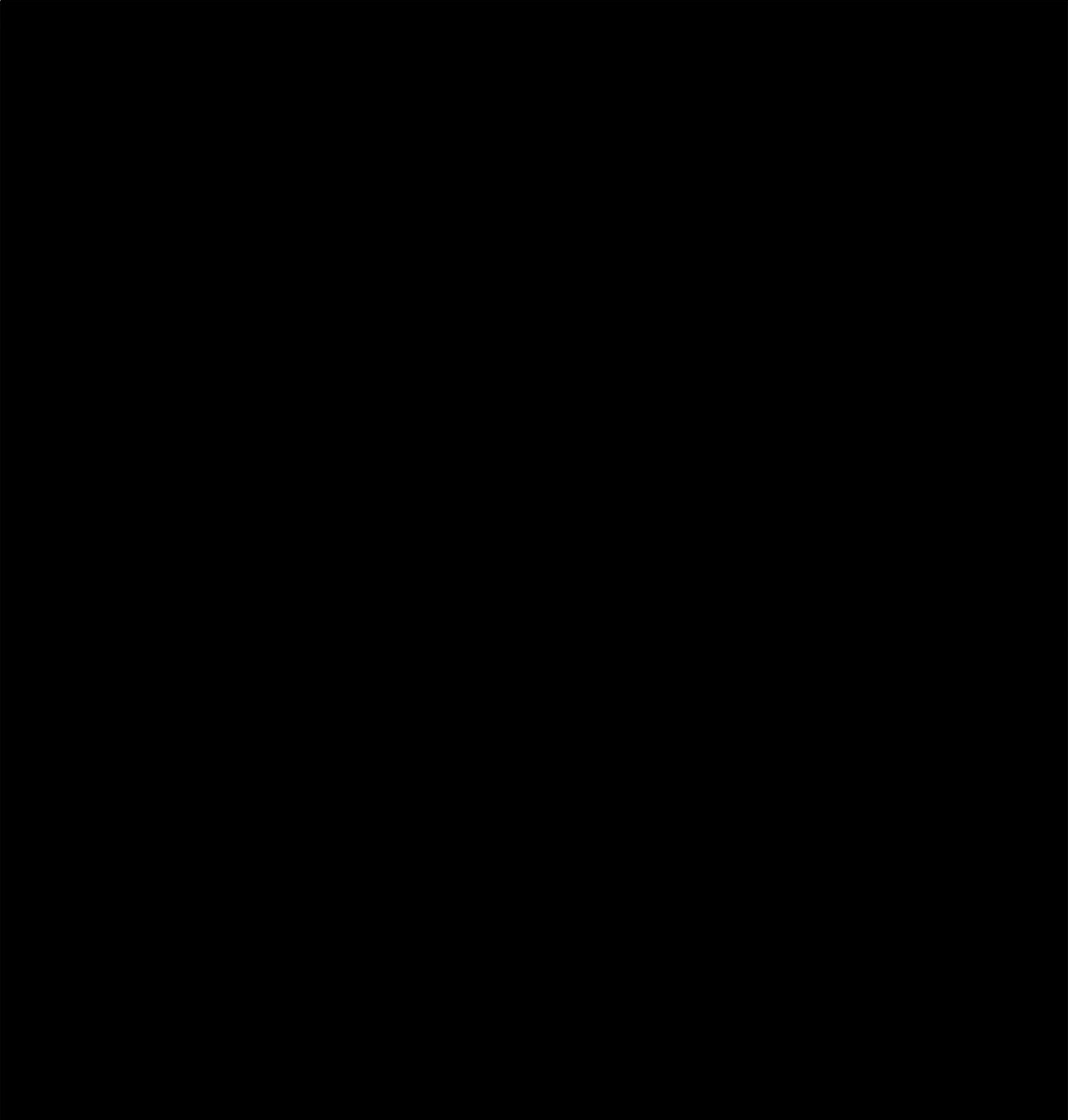


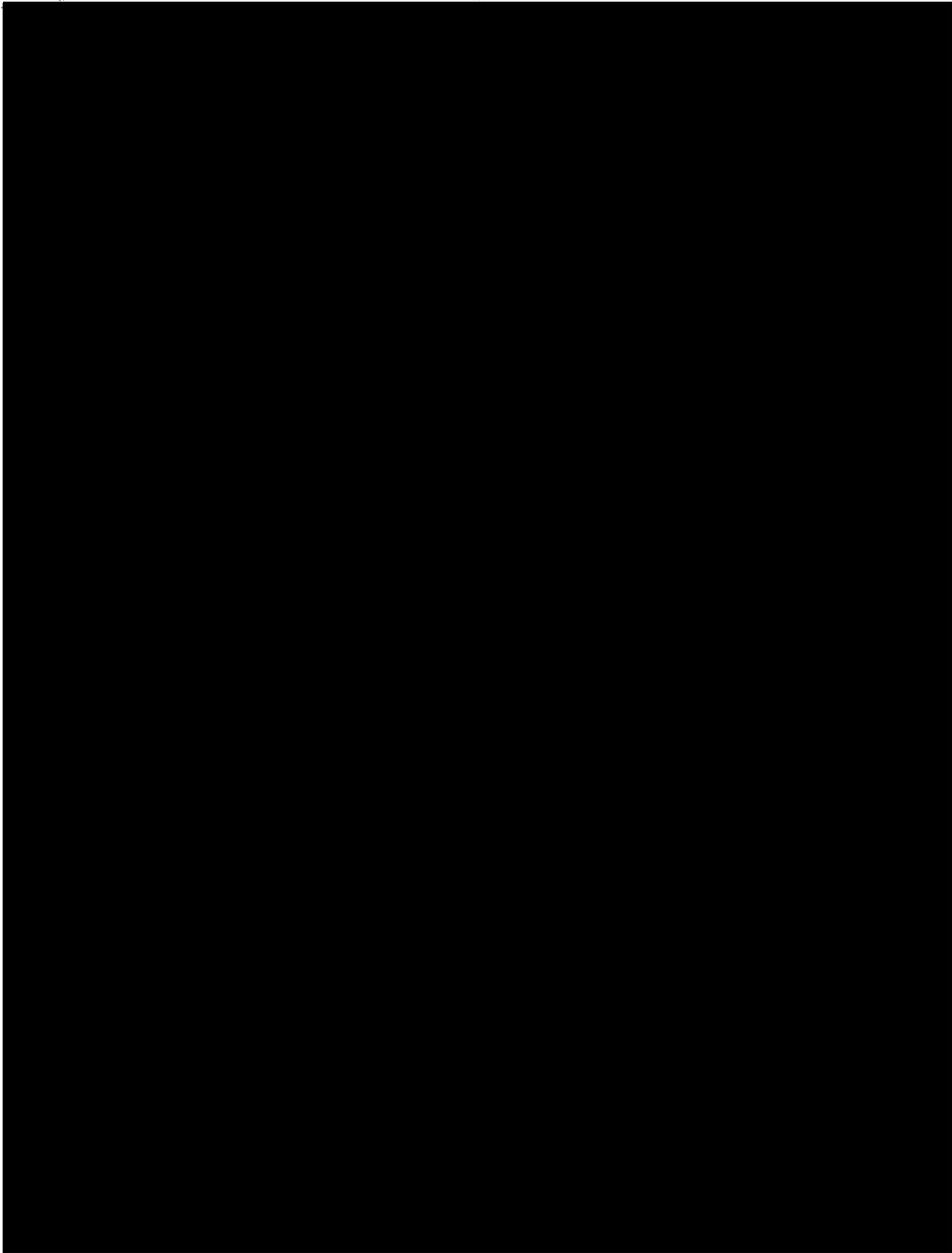


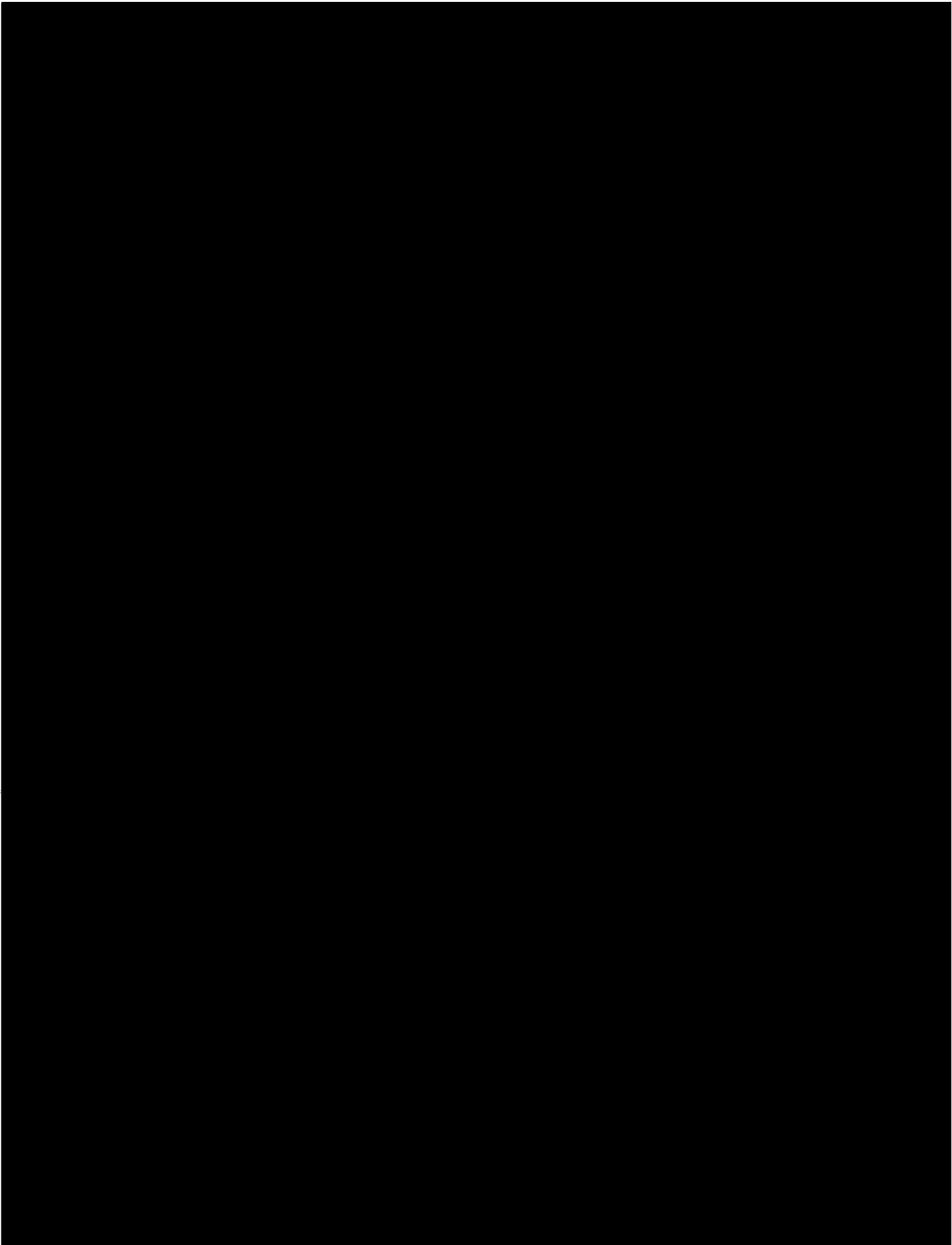


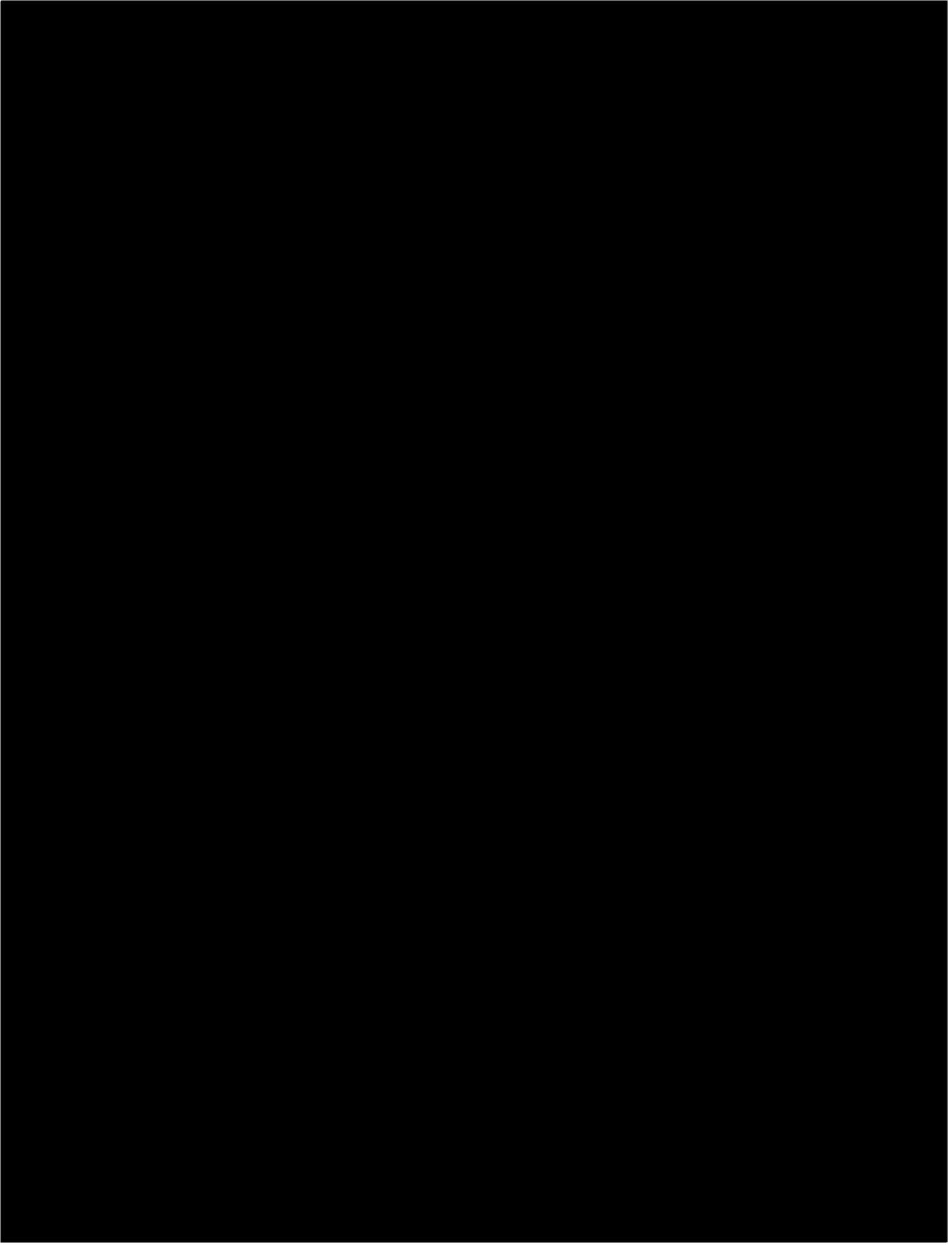


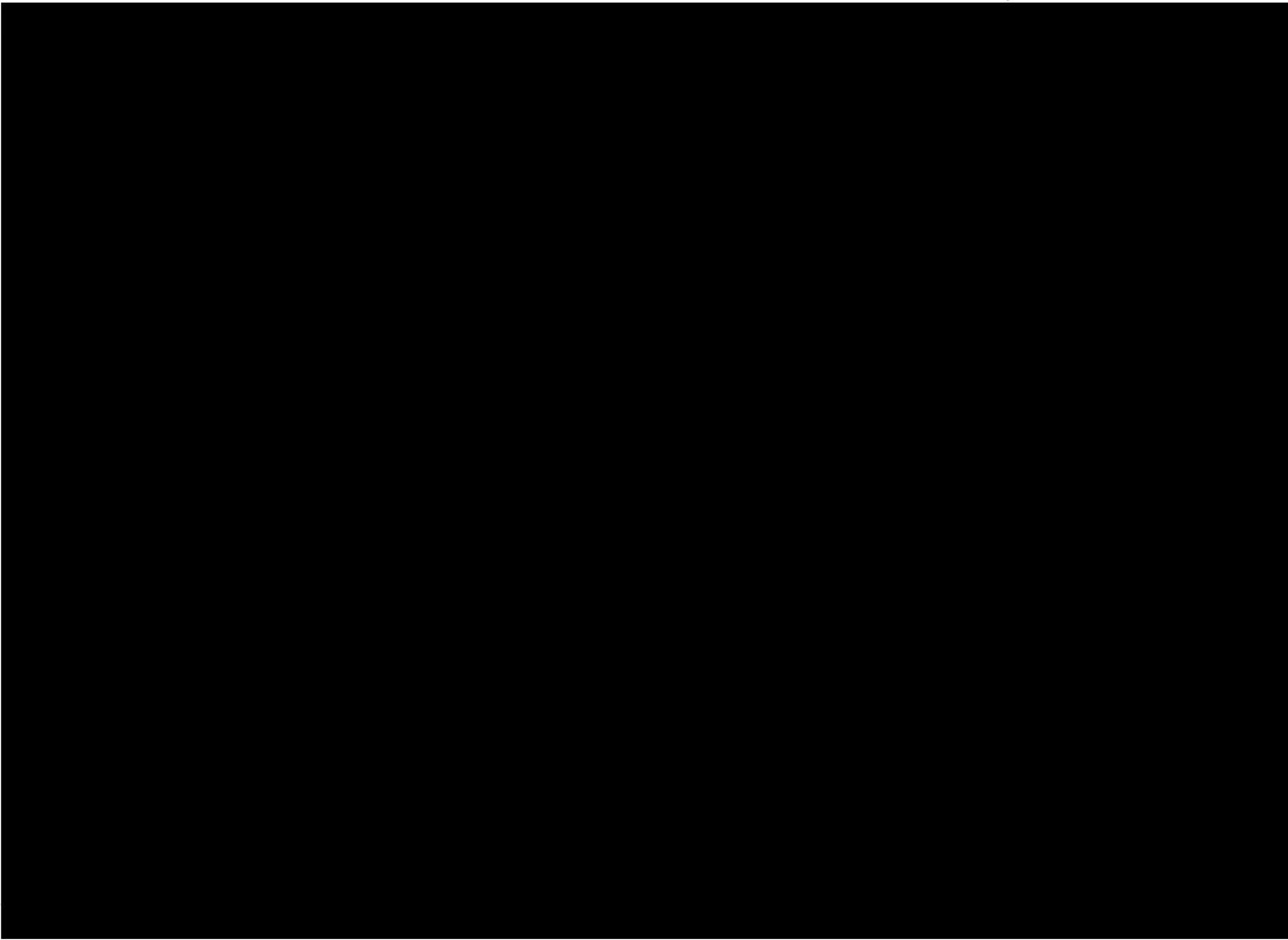


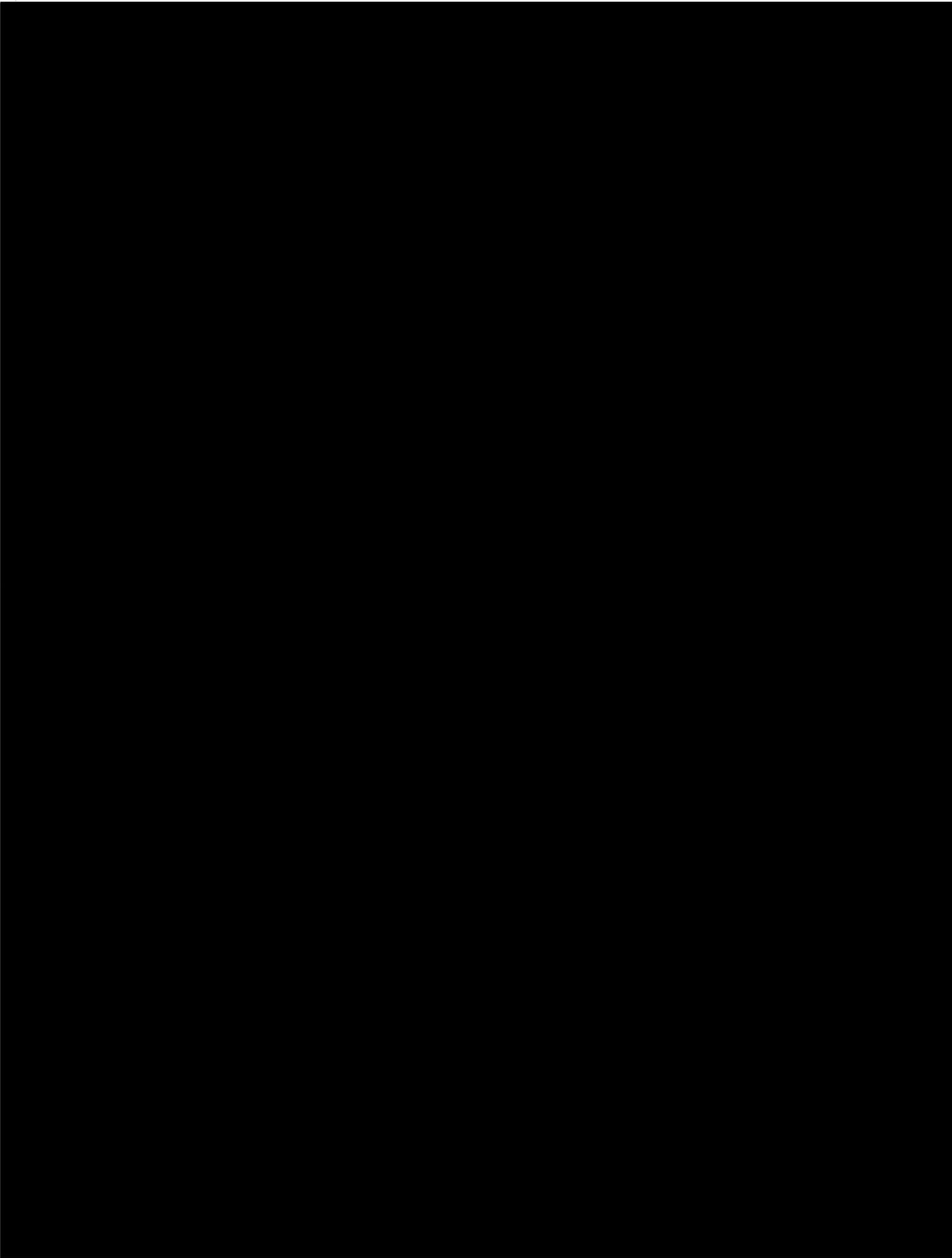












Alphonso David

From: Alphonso David
Sent: Thursday, September 20, 2018 2:41 PM
To: Melissa DeRosa
Cc: Linda Lacewell; Jill DesRosiers
Subject: RE: I have to jump off call I apologize can someone fill in for our SOTS

Privileged and confidential
Attorney client communication
Attorney work product

We manage all allegations/claims using the same process and applying the same standard. Accordingly, given that this was independently forwarded to counsel's office, we have already begun compiling information regarding this and other allegations regarding this employee. Thanks.

Alphonso

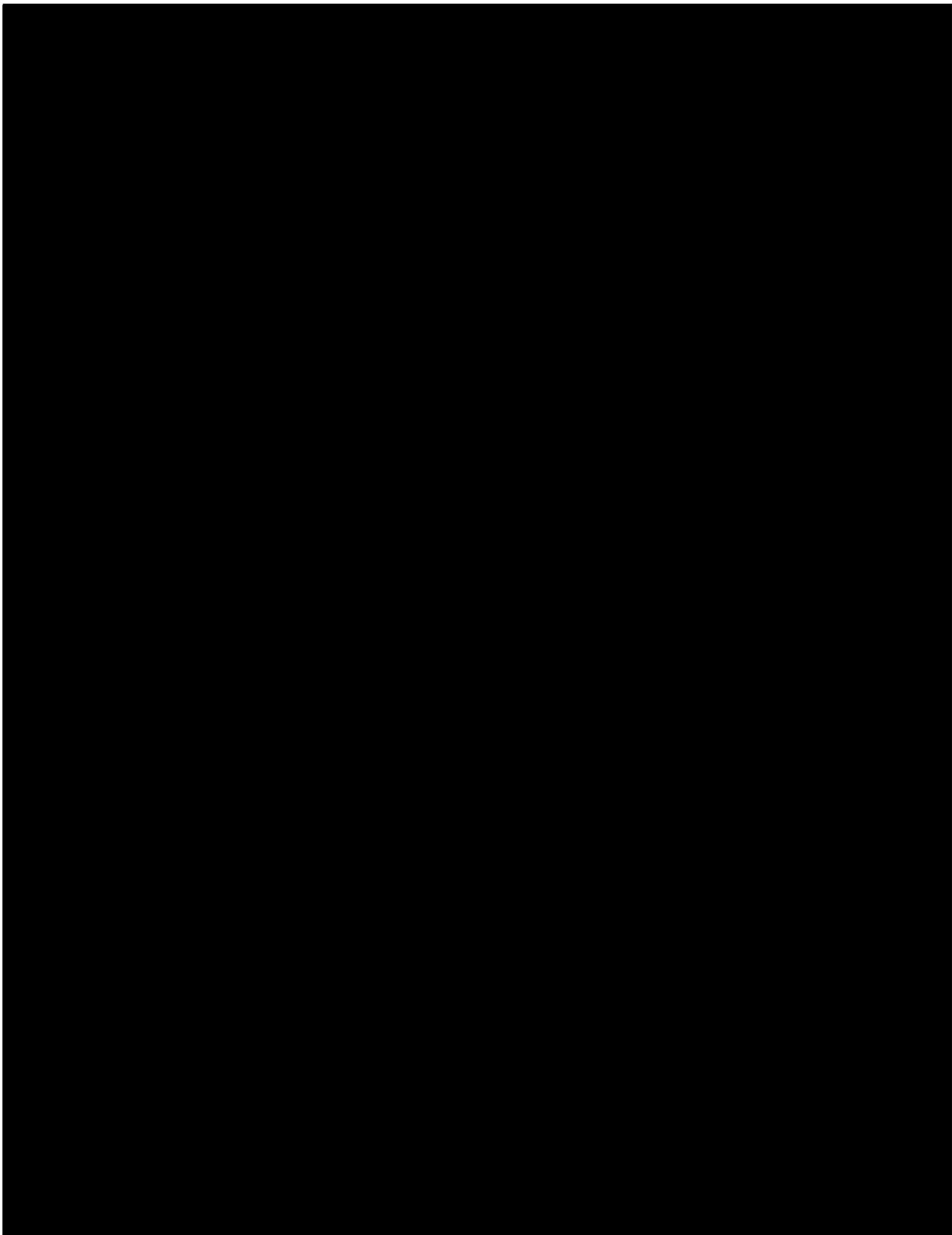
From: Melissa DeRosa
Sent: Thursday, September 20, 2018 2:34 PM
To: Alphonso David <[REDACTED]@exec.ny.gov>
Cc: Linda Lacewell <[REDACTED]@exec.ny.gov>; Jill DesRosiers <[REDACTED]@exec.ny.gov>
Subject: FW: I have to jump off call I apologize can someone fill in for our SOTS

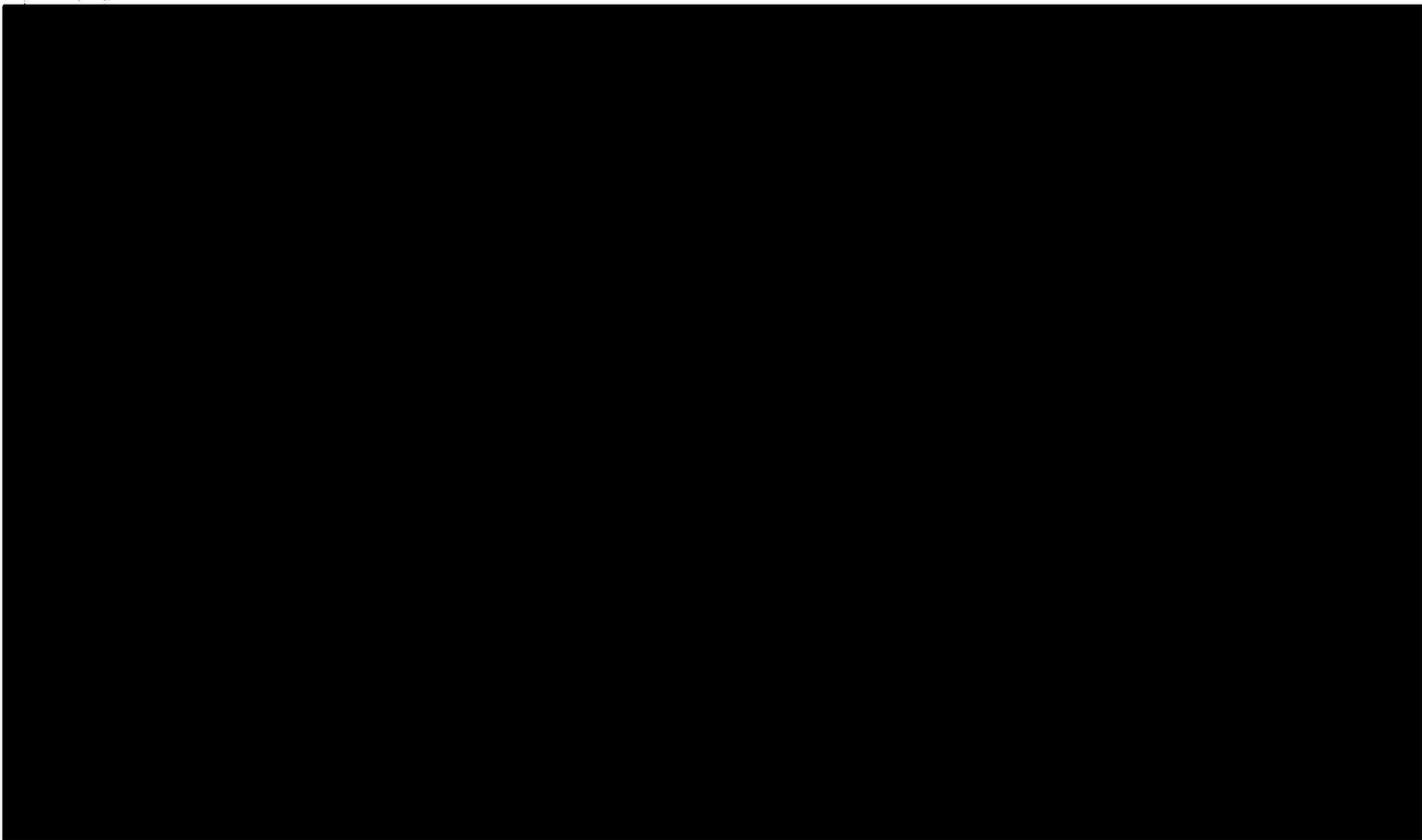
Alphonso pls create a file for lindsey
Pls put this in it

From: [REDACTED]
Sent: Wednesday, September 19, 2018 3:55 PM
To: Linda Lacewell <[REDACTED]@exec.ny.gov>; Melissa DeRosa <[REDACTED]@exec.ny.gov>; Jill DesRosiers <[REDACTED]@exec.ny.gov>
Subject: Fw: I have to jump off call I apologize can someone fill in for our SOTS

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lindsey Boylan <[REDACTED]@exec.ny.gov>
Sent: Wednesday, September 19, 2018 12:21 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: I have to jump off call I apologize can someone fill in for our SOTS







Explore

Settings

Thread

- Lindsey Boylan** @LindseyBoylan · Dec 8, 2020

Yesterday was an extremely weird day, responding to the news world finally waking up about the whispers they have heard about @NYGovCuomo over the years. It's worse than the gossip, by far.

My hope is he is on notice and won't harm more people, especially women.

22 174 1.1K
- Lindsey Boylan** @LindseyBoylan · Dec 8, 2020

I have very important work to do getting elected so I can help my city recover and my people be heard.

I will not be spending my days responding to the trauma men like @NYGovCuomo have caused every day in power.

Instead I'm getting back to my work.

4 20 265
- Lindsey Boylan** @LindseyBoylan · Dec 8, 2020

But, you better believe I'll be listening to what I hear out there, @NYGovCuomo. And if other women decide to come forward I will back them up and elaborate.

For now, I am getting back to my important work that made me willing to live in hell so long working for you.

5 40 335
- Lindsey Boylan** @LindseyBoylan · Dec 8, 2020

When we let our abusers, or onlookers, dictate the conversation we lose. I will not be stopped. I will not be deterred. I will not be minimized and truncated in history as someone that was victimized by a famous and powerful man the world kept elevating.

I will fight.

20 55 442

Replies

- D'Abbey-Bonacci** @lordgrand7 · Dec 8, 2020

Replying to @LindseyBoylan and @NYGovCuomo

I hope things go well for you @LindseyBoylan. There are women across the globe that have suffered trauma from powerful men. Sadly, it's an enduring reality for too many women. I don't know your story, but I'm acutely aware what trauma inflicted by powerful men can do. Stay strong

1 2 27
- Sandra Rios** @sabulosaa · Dec 8, 2020

Replying to @LindseyBoylan and @NYGovCuomo

????? unbelievable #StrongerTogether

3
- Roger** @Roger2dot0 · Dec 8, 2020

Replying to @LindseyBoylan @es_indivisible and @NYGovCuomo

What are you talkin about?

1

View more replies

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Sign up

Relevant people

- Lindsey Boylan** @LindseyBoylan

Mom. Progressive M
4 a Livable City. Fm
& Urban Planner. C
Manhattan Boroug
- Andrew Cuomo** @NYGovCuomo

Father, fisherman, n
enthusiast, 56th Go

What's happening

Music - LIVE
It's Travis Scott's birthday
Trending with Travis Scott, Astro

Trending in United States
BOYFRIEND REVEAL
4,131 Tweets

Trending in United States
Josh Duggar
Former reality television star
arrested by federal agents in
Thursday, TMZ reports
Trending with 19 Kids and Count

COVID-19 - LIVE
COVID-19: News and upda
New York

The New York Times · Yes
'Disaster Girl' is 21 now an
made \$500,000 off the me

Show more

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Ads info More ... © 2021 Twit

Don't miss what's happening

People on Twitter are the first to know.

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Lindsey Boylan @LindseyBoylan · Dec 13, 2020
 My first experience of workplace sexual harassment was when my mom got her first real office job after graduating from college when I was in high school.

She was so excited to be taken "seriously." Her boss isolated her and kissed her. She never had that type of job again.

330 1.4K 7.6K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020
 It was then how I learned how hard it is for women. How hard this world can be for us when we are trying to be taken seriously and help our community. How easily jerks can destroy the lives of women.

58 331 3.7K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020
 And I promised myself I would never let those kind of guys win. I would work hard my whole life to put myself in positions of power to change things. To end the violence & corruption. Give voice to the voiceless.

Thread

Lindsey Boylan @LindseyBoylan
 Replying to @LindseyBoylan

Yes, @NYGovCuomo sexually harassed me for years. Many saw it, and watched.

I could never anticipate what to expect: would I be grilled on my work (which was very good) or harassed about my looks. Or would it be both in the same conversation? This was the way for years.

9:16 AM · Dec 13, 2020 · Twitter for iPhone

9,846 Retweets 4,118 Quote Tweets 27.8K Likes

330 1.4K 7.6K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020
 Replying to @LindseyBoylan
 Not knowing what to expect what's the most upsetting part aside from knowing that no one would do a damn thing even when they saw it.

No one.

And I *know* I am not the only woman.

203 1K 7.5K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020
 I'm angry to be put in this situation at all. That because I am a woman, I can work hard my whole life to better myself and help others and yet still fall victim as countless women over generations have. Mostly silently.

I hate that some men, like @NYGovCuomo abuse their power.

New to Twitter?

Sign up now to get your own pers

Sign up

Relevant people

Lindsey Boylan @LindseyBoylan
 Mom. Progressive M
 4 a Livable City. Fm
 & Urban Planner. C
 Manhattan Borough

Andrew Cuomo @NYGovCuomo
 Father, fisherman, n
 enthusiast, 56th Go

What's happening

Music · LIVE
It's Travis Scott's birthday
 Trending with [travis scott](#), [Astrow](#)

Trending in United States
BOYFRIEND REVEAL
 4,069 Tweets

Trending in United States
Josh Duggar
 Former reality television star
 arrested by federal agents in
 Thursday, TMZ reports

Don't miss what's happening

People on Twitter are the first to know.

Log in S

#	From	To	Direction	Subject	Body
	[REDACTED]	[REDACTED] Linda Lacewell (owner) - Read: 12/13/2020 8:37:54 PM(UTC- 5) [REDACTED]@gmail. com Linda Lacewell (owner)	Incoming	NYTimes: Former Aide Accuses Cuomo of Sexual Harassment	Psycho?
<u>2</u>	[REDACTED]	[REDACTED] Linda Lacewell (owner) - Read: 12/13/2020 8:37:54 PM(UTC- 5) [REDACTED]@gmail. com Linda Lacewell (owner)	Incoming		https://www.nytimes.com/2020/12/13/nyregion/cuomo-sexual-harassment.html?referringSource=articleShare
<u>3</u>					

<p>4</p>	<p>Linda Lacewell</p>	<p>Delivered: 12/13/2020 8:38:39 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>	<p>Running for office and made it up</p>
<p>5</p>	<p>[REDACTED]</p>	<p>Linda Lacewell (owner) - Read: 12/13/2020 8:47:43 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>Maybe the third time she runs for office he'll have attacked her and thrown her to the ground</p>
<p>6</p>	<p>[REDACTED]</p>	<p>Linda Lacewell (owner) - Read: 12/13/2020 8:47:43 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>I don't believe her if she said they called her at all hours of the night demanding to know why she wasn't at her desk</p>

<p>7</p>	<p>[REDACTED] Linda Lacewell</p>	<p>[REDACTED] - Delivered: 12/13/2020 8:49:04 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>		<p>https://nypost.com/2020/12/13/lindsey-boylan-alleges-cuomo-sexually-harassed-her-about-looks/</p>
<p>8</p>	<p>[REDACTED] Linda Lacewell</p>	<p>[REDACTED] - Delivered: 12/13/2020 8:49:04 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>		<p>See this version</p>

9:38



< 378



3 People >

iMessage

Wed, Dec 9, 7:32 PM

Melissa DeRosa



The first time I heard someone tell me that Cuomo had abused his position of power over her was 2009.

He wasn't even governor yet. That's how far back and consistent the pattern of abuse is.



Lindsey Boylan @Lindsey... · 11h

I've been getting all these messages from people I won't be sharing, because it's their truth, but I must say, @NYGovCuomo will go down as one of the biggest abusers of all time. ...

1

5

14



Lindsey Boylan @LindseyBoylan

Replying to @chimeracoder

It's an open secret.

6:55 PM · 12/9/20 · Twitter for iPhone

Institutions like NYS gov't are designed to protect their own at the expense of others' humanity. It doesn't matter if you're an aide or the Governor.

We'll continue fighting for survivors- both known & unknown-until we achieve a #HarassmentFreeAlbany.



iMessage



AD5186000074

< 379



3 People >

Institutions like NYS gov't are designed to protect their own at the expense of others' humanity. It doesn't matter if you're an aide or the Governor.

We'll continue fighting for survivors- both known & unknown-until we achieve a #HarassmentFreeAlbany. We are stronger together.

Lindsey Boylan @LindseyBoylan · 11h
I've been getting all these messages from people I won't be sharing, because it's their truth, but I must say, @NYGovCuomo will go down as one of the biggest abusers of all time.
...

6:45 PM · 12/9/20 · Twitter Web App

@EricaForNY
If you've been harassed, assaulted, or abused by Cuomo or frankly any other institutionally protected power abuser: I've been there. So have far too many others. You are not alone. We will stand with you.
My DMs are open.
#HarassmentFreeNY
#HarassmentFreeAlbany



< 379



3 People >

Lindsey Boylan @LindseyBoylan · 11h
I've been getting all these messages from people I won't be sharing, because it's their truth, but I must say, @NYGovCuomo will go down as one of the biggest abusers of all time.
...

MD

Alphonso I need to see her full file

MD

Emails etc

All of that is in possession of the state. Judy should be able to get you the file for the time while she was in chamber. There will be an esd component as well but you can start with chamber.

Melissa DeRosa

MD

Linda do u see this?!?!

Linda Lacewell

Yes

Talking to Judy now



Judy has the file -



iMessage



From: "Linda Lacewell" <[REDACTED]@gmail.com>
Sent: Wed, 16 Dec 2020 11:31:00 -0500 (EST)
To: "Judith Mogul" <[REDACTED]@gmail.com>
Subject: Fwd: LAST

----- Forwarded message -----

From: **Stephanie Benton** <[REDACTED]@gmail.com>
Date: Wed, Dec 16, 2020 at 11:27 AM
Subject: LAST
To: Linda Lacewell <[REDACTED]@gmail.com>

We are former employees of Governor Cuomo's Office now working in other pursuits. We have served for a collective of over 20 years with the Governor. Dani Lever served as Director of Communications, Cathy Calhoun as State Director of Operations, and Alphonso David as Counsel. We have individually worked with Ms. Boylan and have been in the company of Ms. Boylan and the Governor on many occasions. Mr. David, as Counsel, was intimately involved in handling the Human Resources complaints against Ms. Boylan and her departure.

We are first and foremost aggressive supporters of civil rights and women's empowerment. We have spent years working to advance and legislate the most aggressive state laws in the nation to protect women. For that reason, we cannot stand by when a woman makes illegitimate accusations of harassment, as it diminishes the rights and claims of all women who are legitimate victims.

Ms. Boylan served as an advisor to the Governor for nine months while she was an employee and located at Empire State Development Agency. In those nine months there were no less than six complaints against Ms. Boylan. Six women made official complaints against Ms. Boylan, African American and white women, peers and subordinates. The official complaints stated Ms. Boylan was "rude", "treats them like children" and made them feel like a "punching bag", "degrading", "insulting", "harassing" and "a bully" and inappropriately fired a subordinate. The complaints caused the Empire State Development Authority, which was the entity that employed Ms. Boylan, to send a legal memo from its CEO and its Counsel, a woman, to Mr. David as Counsel to the Governor due to the severity of the accusations and ethical violations.

In response to the memo, Alphonso David met with Ms. Boylan with a female ethics counsel present, raised the complaints and suggested counseling for Ms.

Boylan, at which point Ms. Boylan became irate and said she would consider quitting. She later that day announced she was quitting. However, several days later Ms. Boylan contacted Mr. David and said she changed her mind and wanted to return to her position. Mr. David said that was not possible. Ms. Boylan then contacted the Governor's Office and said that she needed to talk to the Governor. The Governor was advised by Mr. David not to contact Ms. Boylan given the situation and did not.

We understand that Ms. Boylan may very well be upset about the complaints made against her, losing her position in the administration and having no contact with the Governor. That is to be expected, traumatic and sad.

However, as far as Ms. Boylan suggesting that the Governor made inappropriate comments about her looks, which she characterizes as sexual harassment is concerned, she abuses all legitimate victims. We know from direct experience, the nature of the Governor, and the interactions between the Governor and Ms. Boylan, as we were present for most of their interactions.

Ms. Boylan claims the Governor made comments "about her looks". Ironic given that Ms. Boylan referred to the Governor as "handsome", and told staff that she "loved" the Governor. As professional women, we observed her interaction with the Governor, as well as other male staff members, on many occasions, in public and private, and we believe Ms. Boylan's conduct was unprofessional and inappropriate intimate behavior: sitting on coworker's laps and kissing them in public in the presence of other coworkers. Even to the extent that she felt compelled to send multiple text messages to apologize to one male staff member, who was highly offended, the day following such behavior.

During the extensive ethics conversations with Counsel about Ms. Boylan's behavior and appropriateness and how she felt she was treated by other people, she never mentioned anything negative about the Governor's interaction. Indeed, Ms. Boylan never made any complaint about the Governor for two years, until now, two days after she filed to run for political office as Manhattan Borough President. In addition, she makes these accusations against the Governor with no backup whatsoever. Also coincidentally, her political campaign consultant is also a consultant to a political opponent of the Governor, Jumaane Williams, who has said he is considering running against the Governor. Ms. Boylan is supported by lawyers and financial backers of Donald Trump: an active opponent of the Governor. We understand from credible sources that female members on her

campaign team were offended and actually quit when they heard she and her campaign planned to make such claims for purely political advantage.

The political retribution against the Governor by Ms. Boylan comes as no surprise and was directly forecasted by her. In March, during the height of the COVID crisis, the Governor issued an Executive Order truncating the petitioning period and reducing the number of signatures mandated to run for public office. The order effected every political race in the state. However, Ms. Boylan assumed it was a personal attack on her and believed the change was not helpful for her candidacy for Congress challenging Congressman Nadler. Immediately thereafter, Ms. Boylan texted Robert Mujica, State Budget Director, "Absolutely not helpful please relay that while we are ok, I see what the point is here and I will find ways to respond. Life is Long. And so is my memory. And so are my resources." She texted Dani Lever, Director of Communications, at the same time. "Absolutely not helpful specific response to a tragedy but please relay that while we are ok, I see what the point is here and I will find ways to respond to the message. The future is coming after assholes." Ms. Boylan's political motivation against the Governor was clearly premediated and purposeful.

We are not naive. We understand politics, especially in the current environment, can be a nasty and dirty business. We know the Governor understands that one must endure the slings and arrows to be in the public arena. But it demeans all women when allegations of harassment are made for political or extortive purposes. We encourage all women to come forward with valid complaints of harassment but not to use our advances in achieving new laws for personal animus, political gain or purely notoriety. False claims question the veracity of credible claims.

The Governor always treated us and every woman with whom we saw him interact with respect. Indeed, Ms. Boylan was right when she tweeted six weeks before her departure, "I'm proud to work for a Governor who takes women seriously". And another tweet, 12 days before her departure, "So proud of my boss Andrew Cuomo and all of Team Cuomo". She was also right when she tweeted, after she left, "Governor Cuomo is the best choice for Governor".

It is sad that political opportunism takes precedence over true political aspirations for progressive public service and advances designed to protect women in the workplace can be abused for unethical purposes.

From: "Linda Lacewell" [REDACTED]@gmail.com>
Sent: Wed, 16 Dec 2020 12:42:46 -0500 (EST)
To: "Judith Mogul" [REDACTED]@gmail.com>
Subject: Fwd: Attorney Client Privileged Communication
Attachments: ATT00002.bin;Response by former staffer.docx

Sent from my iPhone

Begin forwarded message:

From: Steven Cohen [REDACTED]@yahoo.com>
Date: December 16, 2020 at 11:40:12 AM EST
To: Melissa DeRosa [REDACTED]@gmail.com>, Roberta Kaplan <[REDACTED]@kaplanhecker.com>,
Linda Lacewell <[REDACTED]@gmail.com>
Subject: Attorney Client Privileged Communication

We are former senior staff members of Governor Andrew Cuomo's Office. Collectively, we served for over 20 years with the Governor and worked at the highest level of State government. Dani Lever served as Director of Communications. Cathy Calhoun as State Director of Operations. Alphonso David served as Counsel.

We are writing in response to the claims made on twitter by Lindsay Boylan. We do so reluctantly. Each of us is a longtime and active supporter of civil rights and women's engagement. We believe women must be heard and that allegations of workforce misconduct must be taken seriously. However, when an accusation is unfounded and seemingly launched to gain a political advantage, standing by silently is not an option. To do otherwise, risks delegitimizing the rights of survivors of workplace abuse.

We each know Ms. Boylan personally; we served with her when she was an advisor to the Governor both in the Governor's Office and at Empire State Development Authority. It is likely that almost every interaction between the Governor and Ms. Boylan took place in either our presence or the presence of another Senior Staff member. Indeed, Ms. Boylan says as much herself. What we witnessed was a forceful and demanding Chief Executive requiring his staff do their best at all time. It was challenging, hard work and at times it was bruising. In other words, it is what you would expect in a high-pressure environment where the accomplishments matter and failures have consequences. It isn't for everyone. What we did not see was any kind of sexual harassment suggested by Ms. Boylan's summary and unsubstantiated assertion.

Unfortunately, we are also aware that during Ms. Boylan's relatively brief tenure, no less than six complaints were raised about her conduct. The complaints came from peers and subordinates, from men and woman. We are not here to castigate Ms. Boylan. But it is relevant to assessing Ms. Boylan's claim, to understand that she left State employment after being formally confronted by repeated complaints that she "treats [subordinates] like children" and made them feel like a

“punching bag”, was “degrading”, “insulting”, and “harassing”. As a consequence of inappropriately firing a subordinate, Ms. Boylan was formally counseled about her conduct by Mr. David. In response, Ms. Boylan resigned. Several days later Ms. Boylan contacted Mr. David and said she changed her mind and wanted to return to her position. Mr. David said that was not possible.

During her tenure, at the time of her departure and after her departure, Ms. Boylan praised the Governor and the staff for his work and accomplishments. [ADD COMMENTS]. No complaint – formal or informal – was ever raised about the Governor. And, while we are fully aware of the all too frequent phenomenon where those are subject to abuse do not come forward and even deny the abuse they have endured, we think it is significant to note that Ms. Boylan only began raising complaints about her experience when she launched a Congressional campaign. And even as she complained that the Governor’s Office was an abusive environment (an assertion we dispute), the claim of sexual harassment was never mentioned. Indeed, the accusation did not occur until she launched a campaign for Manhattan Borough President. We do not know Ms. Boylan’s motivation but the timing is not lost on us.

[Option: Also, her political campaign consultant is also a consultant to a political opponent of the Governor, Jumaane Williams, who has said he is considering running against the Governor. Ms. Boylan is supported by lawyers and financial backers of Donald Trump: an active opponent of the Governor. We understand from credible sources that female members on her campaign team were offended and actually quit when they heard she and her campaign planned to make such claims for purely political advantage.]

[Note: I would give this piece to a reporter rather than include in the letter] The political retribution against the Governor by Ms. Boylan comes as no surprise and was directly forecasted by her. In March, during the height of the COVID crisis, the Governor issued an Executive Order truncating the petitioning period and reducing the number of

signatures mandated to run for public office. The order effected every political race in the state. However, Ms. Boylan assumed it was a personal attack on her and believed the change was not helpful for her candidacy for Congress challenging Congressman Nadler. Immediately thereafter, Ms. Boylan texted Robert Mujica, State Budget Director, "Absolutely not helpful please relay that while we are ok, I see what the point is here and I will find ways to respond. Life is Long. And so is my memory. And so are my resources." She texted Dani Lever, Director of Communications, at the same time. "Absolutely not helpful specific response to a tragedy but please relay that while we are ok, I see what the point is here and I will find ways to respond to the message. The future is coming after assholes." Ms. Boylan's political motivation against the Governor was clearly premediated and purposeful.

We are not naive. We understand politics, especially in the current environment, can be a nasty and dirty business. We know the Governor understands that one must endure the slings and arrows to be in the public arena. But it demeans all women when allegations of harassment are made for political *[or extortive]* purposes.

We encourage all women to come forward with valid complaints of harassment. But weaponizing a claim of sexual harassment for personal political gain or to achieve notoriety cannot be tolerated. False claims demean the veracity of credible claims.

[I don't think we need this. Too sanctimonious. It is sad that political opportunism takes precedence over true political aspirations for progressive public service and advances designed to protect women in the workplace can be abused for unethical purposes.]

[Note: I'd remove the following: *The Governor always treated us and every woman with whom we saw him interact with respect. Indeed, Ms. Boylan was right when she tweeted three weeks before her departure, "I'm proud to work for a Governor who takes women seriously". And another tweet, X weeks before her departure, "So proud of my boss Andrew Cuomo and all of Team Cuomo". She was also right when she tweeted, after she left, "Governor Cuomo is the best choice for Governor".*]

Redacted in Original Production

From: Linda Lacewell [REDACTED]@gmail.com>
Date: December 16, 2020 at 4:46:10 PM EST
To: Camille Joseph Varlack [REDACTED]@gmail.com>
Subject: Draft

We are former senior staff members of Governor Andrew Cuomo's Office.

We are writing in response to the claims made on twitter by Lindsay Boylan. We do so reluctantly. Each of us is a longtime and active supporter of civil rights and women's engagement. We believe women must be heard and that allegations of workforce misconduct must be taken seriously. However, when an accusation is unfounded and seemingly launched to gain a political advantage, standing by silently is not an option. To do otherwise, risks delegitimizing the rights of survivors of workplace abuse.

And, while we are fully aware of the all too frequent phenomenon where those who are subject to abuse do not come forward and even deny the abuse they have endured, we think it is significant to note that Ms. Boylan only began raising complaints about her experience last year when she launched a Congressional campaign. And even then, she only complained that the Governor's Office was an abusive environment (an assertion we dispute), the claim of sexual harassment for inappropriate comments was never mentioned.

CONFIDENTIAL

CJV_000005

EXHIBIT

14

Indeed, the accusation did not occur until two days after she launched a new campaign for Manhattan Borough President. We do not know Ms. Boylan's motivation but the timing is not lost on us.

The political retribution against the Governor by Ms. Boylan comes as no surprise and was directly forecasted by her. In March, during the height of the COVID crisis, the Governor issued an Executive Order truncating the petitioning period and reducing the number of signatures mandated to run for public office. The order effected every political race in the state. However, Ms. Boylan assumed it was a personal attack on her and believed the change was not helpful for her candidacy for Congress. Immediately thereafter, Ms. Boylan texted Robert Mujica, State Budget Director, "Absolutely not helpful please relay that while we are ok, I see what the point is here and I will find ways to respond. Life is Long. And so is my memory. And so are my resources." She texted Dani Lever, Director of Communications, at the same time. "Absolutely not helpful specific response to a tragedy but please relay that while we are ok, I see what the point is here and I will find ways to respond to the message. The future is coming after assholes." Ms. Boylan's political motivation against the Governor was clearly premediated and purposeful.

Also, her political campaign consultant is also a consultant to a political opponent of the Governor. Ms. Boylan is supported by lawyers and financial backers of Donald Trump: an active opponent of the Governor. We understand from credible sources that female members on Ms. Boylan's campaign team were offended and actually quit when they heard she and her campaign planned to make such claims for purely political advantage.

We each know Ms. Boylan personally; we served with her

when she was an advisor to the Governor both in the Governor's Office and at Empire State Development Authority. It is likely that almost every interaction between the Governor and Ms. Boylan took place in either our presence or the presence of another Senior Staff member. Indeed, Ms. Boylan says as much herself. What we witnessed was a forceful and demanding Chief Executive requiring his staff do their best at all times. It was challenging work and at times it was hard both for men and women. In other words, it is what you would expect in a high-pressure environment where the accomplishments matter and failures have consequences. It isn't for everyone. What we did not see was any kind of sexual harassment suggested by Ms. Boylan's summary and unsubstantiated assertion.

Unfortunately, we are also aware that during Ms. Boylan's relatively brief tenure, no less than six complaints were raised about her conduct. The complaints came from peers and subordinates, from men and women. We are not here to castigate Ms. Boylan. But it is relevant to assessing Ms. Boylan's claim, to understand that she left State employment after being formally confronted by repeated official complaints that she "treats [subordinates] like children" and made them feel like a "punching bag", was "degrading", "insulting", and "harassing". As a consequence of inappropriately firing a subordinate, Ms. Boylan was formally counseled about her conduct by Mr. David. In response, Ms. Boylan resigned. Several days later Ms. Boylan contacted Mr. David and said she changed her mind and wanted to return to her position. Mr. David said that was not possible. Ms. Boylan attempted to contact the Governor, but Mr. David advised the Governor to not discuss the situation with Ms. Boylan as the complaints were outstanding.

Ms. Boylan suggests the Governor made comments about her

looks. This is ironic because we know Ms. Boylan referred to the Governor as “handsome” and said she “loved” him to staff; which we do believe were inappropriate comments. As professional women, we also know her behavior to be inappropriately intimate with her coworkers in public, in the presence of other coworkers.

During her tenure, at the time of her departure and after her departure, no complaint – formal or informal – was ever raised about the Governor. In fact, Ms. Boylan praised the Governor and the staff for his work and accomplishments. Ms. Boylan tweeted six weeks before her departure, "I'm proud to work for a Governor who takes women seriously". And another tweet, 12 days before her departure, "So proud of my boss Andrew Cuomo and all of Team Cuomo". She also tweeted, after she left, “Governor Cuomo is the best choice for Governor”.

We are not naive. We understand politics, especially in the current environment, can be a nasty and dirty business. We know the Governor understands that one must endure the slings and arrows to be in the public arena. But it demeans all women when allegations of harassment are made for political or extortive purposes.

We encourage all women to come forward with valid complaints of harassment. But weaponizing a claim of sexual harassment for personal political gain or to achieve notoriety cannot be tolerated. False claims demean the veracity of credible claims.

Sent from my iPhone

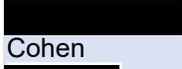
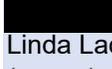
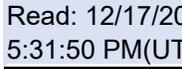
#	From	To	Direction	Subject	Body
1	<p>[REDACTED] Alphonso David</p>	<p>[REDACTED] Linda Lacewell (owner) - Read: 12/17/2020 3:37:53 PM(UTC-5) [REDACTED] Melissa DeRosa [REDACTED] Steve Cohen [REDACTED]@gmail.com Linda Lacewell (owner)</p>	Incoming		<p>Bad news from [REDACTED].</p> <p>Connected with my counsel and as the company's spokeswoman they prefer I not sign on. Let me know if there is any other way I can be helpful.</p> <p>Sorry this didn't work out.</p>

	Alphonso David	Linda Lacewell (owner) - Read: 12/17/2020 3:37:53 PM(UTC-5) Melissa DeRosa Steve Cohen @gmail.com Linda Lacewell (owner)	Incoming	Would still focus on the strategy. Can cross this bridge more later.
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[2](#)

	Alphonso David	Linda Lacewell (owner) - Read: 12/17/2020 5:25:09 PM(UTC-5) Melissa DeRosa Steve Cohen @gmail.com Linda Lacewell (owner)	Incoming	Call me together.
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[3](#)

	<p>  Linda Lacewell </p>	<p>  Alphonso David  Melissa DeRosa  Steve Cohen  @gmail.com Linda Lacewell (owner) </p>	Outgoing		She is sending dial in
<p>4</p>	<p>  Alphonso David </p>	<p>  Linda Lacewell (owner) - Read: 12/17/2020 5:31:50 PM(UTC-5)  Melissa DeRosa  Steve Cohen  @gmail.com Linda Lacewell (owner) </p>	Incoming		Ok. Let's do dial in.
<p>5</p>					

	<p>[REDACTED] Melissa DeRosa</p>	<p>[REDACTED] Linda Lacewell (owner) - Read: 12/17/2020 5:32:04 PM(UTC-5) [REDACTED] Alphonso David [REDACTED] Steve Cohen [REDACTED]@gmail.com Linda Lacewell (owner)</p>	Incoming		Steph is sending
<p>6</p>	<p>[REDACTED] Melissa DeRosa</p>	<p>[REDACTED] Linda Lacewell (owner) [REDACTED] Alphonso David [REDACTED] Steve Cohen [REDACTED]@gmail.com Linda Lacewell (owner)</p>	Incoming		
<p>7</p>					

8	Stephanie Benton	Linda Lacewell (owner) - Read: 12/18/2020 11:13:20 AM(UTC-5) Alphonso David Judith Mogul @gmail.com Linda Lacewell (owner)	Incoming	and both raised why no men on sign on.
9	Linda Lacewell	Stephanie Benton Alphonso David Judith Mogul @gmail.com Linda Lacewell (owner)	Outgoing	Ok

<p>10</p>	<p>Stephanie Benton</p>	<p>[REDACTED] Linda Lacewell (owner) - Read: 12/18/2020 11:24:14 AM(UTC-5) [REDACTED] Alphonso David [REDACTED] Judith Mogul [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>Who can help make these calls. Really hard for me while with him.</p>
<p>11</p>	<p>Linda Lacewell</p>	<p>[REDACTED] Stephanie Benton [REDACTED] Alphonso David [REDACTED] Judith Mogul [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>	<p>Fonz about to call me</p>

<p>12</p>	<p>[REDACTED] Linda Lacewell</p>	<p>[REDACTED] Stephanie Benton - Delivered: 12/18/2020 12:49:14 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>	<p>[REDACTED] is "pending work" also</p>
<p>13</p>	<p>[REDACTED] Stephanie Benton</p>	<p>[REDACTED] Linda Lacewell (owner) - Read: 12/18/2020 12:50:18 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>Kk</p>
<p>14</p>	<p>[REDACTED] Linda Lacewell</p>	<p>[REDACTED] Stephanie Benton - Delivered: 12/18/2020 12:53:18 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>	<p>Fonz calling: [REDACTED]</p>

15	Linda Lacewell	Stephanie Benton - Delivered: 12/18/2020 12:53:27 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Outgoing	Put my name by Dani
16	Linda Lacewell	Stephanie Benton - Delivered: 12/18/2020 4:43:21 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Outgoing	Sent updated chart plz take a look
17	Linda Lacewell	Stephanie Benton - Delivered: 12/18/2020 4:43:44 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Outgoing	Remainder either I don't have tel number or don't know. We can discuss when you're ready

18	Stephanie Benton	[REDACTED] Linda Lacewell (owner) - Read: 12/18/2020 5:21:02 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Incoming	You're nailing it.
	Linda Lacewell	Stephanie Benton - Delivered: 12/18/2020 5:21:09 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Outgoing	Thank you!
20	Linda Lacewell	Stephanie Benton - Delivered: 12/18/2020 5:21:24 PM(UTC-5) [REDACTED]@gmail.com Linda Lacewell (owner)	Outgoing	Also had wrong number for [REDACTED]

[REDACTED]
Linda
Lacewell

[REDACTED]
Stephanie Benton -
Delivered: 12/21/2020
1:40:15 PM(UTC-5)
[REDACTED]@gmail.com
Linda Lacewell
(owner)

Outgoing

If you're bored I did A-L on list

Date: Sunday, February 21 2021 06:10 PM
Subject: Re: Lindsey.
From: Melissa DeRosa [REDACTED]@exec.ny.gov>
To: Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Richard Azzopardi <[REDACTED]@exec.ny.gov>;
CC: Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Judith Mogul <[REDACTED]@exec.ny.gov>; Elkan Abramowitz <[REDACTED]@maglaw.com>; Josh Vlasto <[REDACTED]@gmail.com>; Peter Ajemian <[REDACTED]@exec.ny.gov>;

Hold we got changed
Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lacewell, Linda A (DFS)
Sent: Sunday, February 21, 2021 6:08 PM
To: Richard Azzopardi
Cc: Melissa DeRosa; Steven Cohen (esd.ny.gov); Judith Mogul; Elkan Abramowitz; Josh Vlasto; Peter Ajemian
Subject: Re: Lindsey.

You don't need "disgruntled former employee." Just the facts. "She quit after being counseled about repeated verbal abuse of subordinates and coworkers. Her request to return was denied. She's now looking to amplify her run for public office."

Sent from my iPhone

On Feb 21, 2021, at 6:06 PM, Richard Azzopardi <[REDACTED]@exec.ny.gov > wrote:

Here's the set up and the trimmed quote they're doing

Boyland accused the gov of fostering a toxic team environment in December.

"The governor was prone to screaming to people inside and outside state government when he doesn't get what he wants."

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Melissa DeRosa
Sent: Sunday, February 21, 2021 6:03 PM
To: Richard Azzopardi; Steven Cohen (esd.ny.gov); Linda A Lacewell (dfs.ny.gov); Judith Mogul; Elkan Abramowitz; Josh Vlasto
Cc: Peter Ajemian
Subject: Re: Lindsey.

Adding people

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Richard Azzopardi

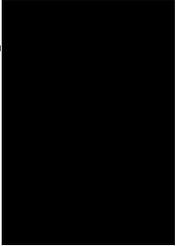
Re: Privileged Confidential

Lacewell, Linda A (DFS) <[REDACTED]@dfs.ny.gov>

Fri 12/18/2020 4:37 AM

To: Benton, Stephanie (CHAMBER) <[REDACTED]@exec.ny.gov>

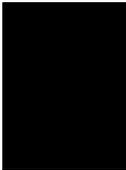
Cc: DeRosa, Melissa (CHAMBER) <[REDACTED]@exec.ny.gov>



We have lots more on the original list you did with Judy

Sent from my iPhone

On Dec 17, 2020, at 9:53 PM, Stephanie Benton <[REDACTED]@exec.ny.gov> wrote:

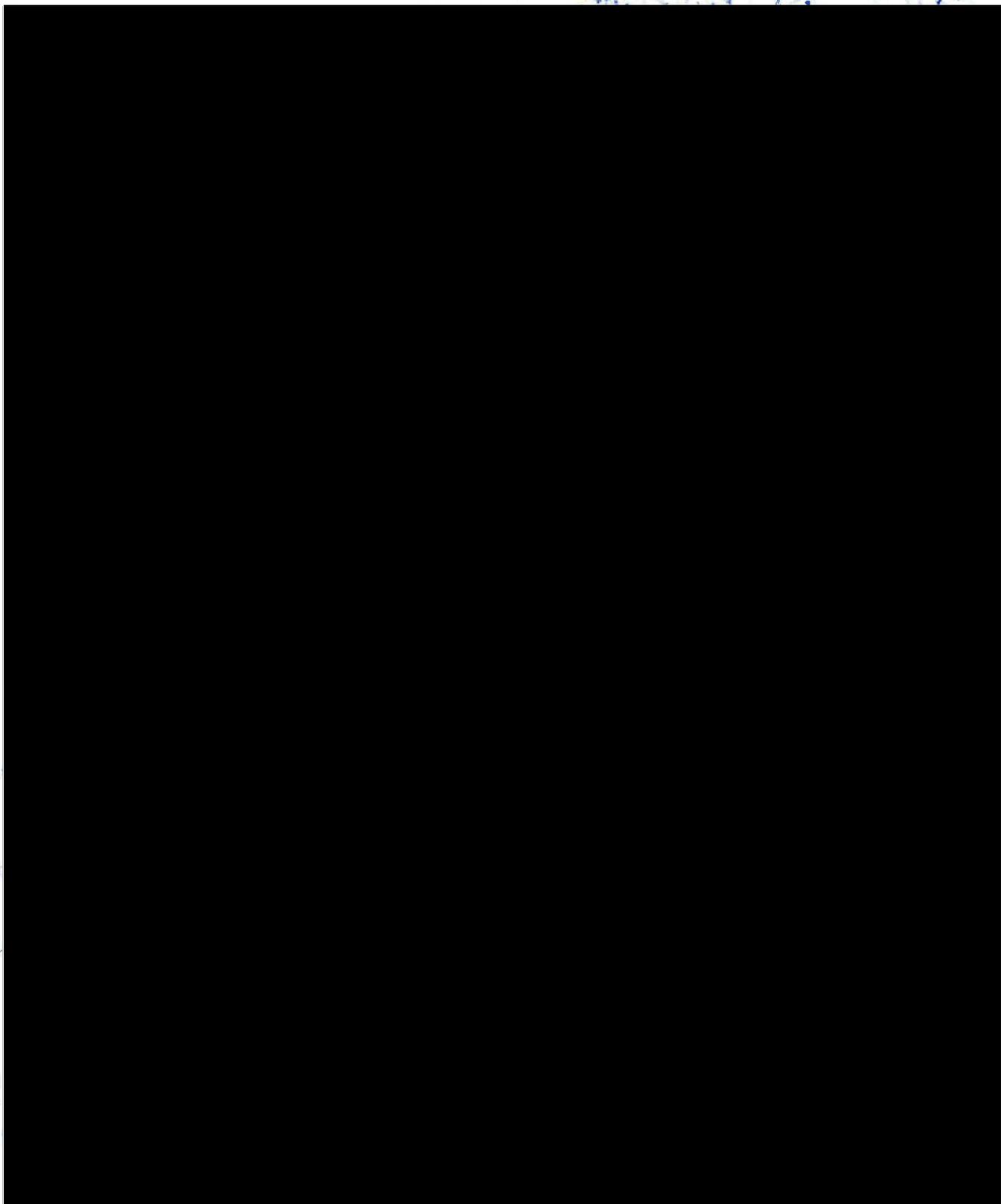


Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Stephanie Benton
Sent: Thursday, December 17, 2020 9:43 PM
To: Linda A Lacewell (dfs.ny.gov)
Cc: Melissa DeRosa
Subject: Privileged Confidential

So this is progress. How do we get him 50 plus names. Would be great to keep his mind on this path and would be real shot in the arm if we can get him names in am.





And I want to put eyes on stupid list again to grab more of the kids. But I can't right now. I just can't.

Send to Linda tell her ask 50 names to sign the following letter. "We all worked for Governor Cuomo directly. His motto ^{is} Performance Integrity Pride, we work for the people. He has always been true to that pledge. He is strong tough respectful inclusive and effective. He showed the teams capacity with a long record of accomplishments and the world saw it in the teams product during covid. We are all glad and proud to have served him and the people of the state. ^{have}



From: Linda Lacewell [REDACTED] [REDACTED]@dfs.ny.gov
Sent: 2/24/2021 1:53:22 PM
To: DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov
CC: Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov; Elkan Abramowitz [REDACTED]
Subject: Lis Smith
Re: Priv

Seems fine

Sent from my iPhone

On Feb 24, 2021, at 1:49 PM, Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:

"As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

In Ms. Boylan's latest blog post, she opens up with a story about a plane trip in October 2017 -- the manifests of all flights from October 2017 can be found below - there was no flight where Lindsey was alone with the Governor, a single press aide, and a NYS Trooper -- below is a statement that can be attributed to John Maggiore, Howard Zemsky, Dani Lever and Abbey Collins who were on all of these flights with her:

"We were on each of these October flights and this conversation did not happen."

https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/October_2017.pdf

10/04/17 – Watertown Downtown Revitalization Initiative/ Southern Tier Lithium Ion Battery Giga-Factory Announcement/Western New York Smart Growth Community Fund Announcement

Passengers:

Governor Andrew M. Cuomo
John Maggiore, Director of Policy
Dani Lever, Press Secretary
Lindsey Boylan, Chief of Staff, Empire State Development
Howard Zemsky, President and CEO, Empire S

10/06/17 – Cortland Downtown Revitalization Initiative/Rochester Train Station Event

Passengers:

Governor Andrew M. Cuomo
John Maggiore, Director of Policy
Lindsey Boylan, Chief of Staff, Empire State Development

Abbey Fashouer, First Deputy Press Secretary

Protective Services incl. Sr. Inv. V. Straface

10/12/17 - Cold Spring Harbor Laboratory Groundbreaking/Staten Island Fentanyl Crisis Announcement

Passengers:

Governor Andrew M. Cuomo

Dani Lever, Press Secretary

Lindsey Boylan, Chief of Staff, Empire State Development

Howard Zemsky, President and CEO, Empire State

10/17/17 - John R. Oishei Children's Hospital Dedication Ceremony/Syracuse Airport Redesign and Reconstruction Announcement/Norsk Titanium USA Announcement

Passengers:

Governor Andrew M. Cuomo

John Maggiore, Director of Policy

Dani Lever, Press Secretary

Howard Zemsky, President and CEO, Empire State Development

Lindsey Boylan, Chief of Staff, Empire State Development

Protective Services incl. Sr. Inv. J. Boyle

call 2 1:58 | Priv + Conf.

- 1- K had conveyed her view reas. Brought on I had no biz getting the job I did.
- I was scooped up by gov @ an event + I had no biz getting the job I did. I believe it was bc of my appearance. Rem I was only 27 @ the time.

2- finally getting over the exp
 In fact she kept notes
 she threw out this past spring.
 LB reigniting ^{feelings} ~~issues~~ she had @ prev.
 had + put behind her.

reask f You're aware w in GO couple
 my experen - chall fm work perspec
 BC of the way G spoke to me
 + bc felt appearance was
 leading him to treat me in way
 made me uncomf. as an ex.

5pm -
 15 MINS

Fluid

he asked me to search for car parts while w sk
 online while wearing sk + he was beh me
 watched me. made me.

TY
 future updates
 - not
 recd contact
 GO.
 S. hear that

- returned as spoken over last few days.
 L C. contacted for advice. group of w
 [believes most targiste]

to make a claim up to 12 W.
 L - counsel - linked in Staffer #6 - Counsel.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

I have spoken to
 several of the other
 attorneys in the
 firm and they are
 all in support of
 the proposed
 settlement.

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getting from? [this ex. yest.]

No. - previously hand work
- Incl appearance?

notify - situation emerged.
heads up.
hope retain job.
not spoken media.

K. - und. BC goes off asked us hire BC
K needed leave G.O.
BC unconf w/ work env
harshness Gums + view
app. was imp. her

I have spoke L + Gansel + are others up to 12
joining group develop some sort of claim

said TY - apprec. any add info as became aware
— last couple days.

→ no need I looked LinkedIn - partly why called me

Spoken to s.o. call from **Staffer #6** - asked if she had spoken media: said no. - partly why

██████████ and ██████████, ██████████ Acting Pres and GC
Judy Mogul and LL 1/14/21, 5:26pm

██████████ Kaitlin asked for call with those 2. Copied ██████████ Agreed. ██████████ was on with kaitlin. ██████████ described his discussion with Judy: someone from chamber, judy mogul, who had identified reached out because heard kaitlin may have been discussing with him. Heard she was repd by counsel and couldn't discuss with her (so called ██████████). Kaitlin had claims that she had been sexually harassed. They were on to set record straight, not repd by counsel and had not uttered the words sexual harassment. They had reached out to ██████████ and asked if he had been contacted, he said no, he suggested they reach out to ██████████ or ██████████ which led to that conversation.

Kaitlin reiterated had not retained counsel and had never used the term sexually harassed. She believed the governor was a very hard person to talk to. Had g
Extremely difficult, traumatic, does not consider any of his actions sexual harassment.

Kaitlin and or ██████████ said they considered these lies. Why are lies being told about kaitlin. Did not retain counsel and did not use term sexual harassment. You guys are really upsetting her. Shes upset by this (in beginning). Her voice was shaky, may be crying at end

Kaitlin mentioned why is chamber calling my boss. This is what they do. This woman named Staffer #6 ██████████ had reached out to her, now at mta, not even with chamber, with mta, and S #6 ██████████ said a reporter was asking around about me and mentioned I worked for ██████████.

The only other person at chamber I talk to is mujica and I only talk to him about jogging and haven't talked to him in months

At end: kaitlin : should I just call judy. Cant advise you. ██████████ said he is going to call judy to be clear she hasn't retained counsel.

Asked ██████████ who did you speak to at chamber, not about ██████████ normal to report up. ██████████ I understand. ██████████: but ██████████ employees being called.

██████████: statements in stark contrast

Conversation with ██████████
Judy mogul and LL 1/14/2021

From: Peter Ajemian [REDACTED]@exec.ny.gov]
Sent: 2/27/2021 2:04:42 PM
To: Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]
CC: Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; Lis Smith [REDACTED]@gmail.com]; Josh Vlasto [REDACTED]@gmail.com]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]; Christopher Cuomo [REDACTED]@gmail.com]
Subject: Re: Barbara Jones agreed to do it subject to fast conflicts check

On background regarding rape comment:

Aides said the Governor was trying to help Ms. Bennett find strength in acknowledging her experience and her voice after she had asked him for feedback on a speech she was preparing.

On Feb 27, 2021, at 1:37 PM, Judith Mogul <[REDACTED]@exec.ny.gov> wrote:

Rich it has to be independent - that is a trigger word in these types of internal investigations. You can't use your regular counsel - it had to be "independent" meaning not beholden or entrenched.

Sent from my iPhone

On Feb 27, 2021, at 1:34 PM, Richard Azzopardi <[REDACTED]@exec.ny.gov> wrote:

Again, I'd use outside instead of independent it's a trigger word

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lacewell, Linda A (DFS)
Sent: Saturday, February 27, 2021 1:31 PM
To: Peter Ajemian
Cc: Richard Azzopardi; Lis Smith; Josh Vlasto; Melissa DeRosa; Jeffrey Pollock; Judith Mogul; Stephanie Benton; Steven Cohen (esd.ny.gov); Christopher Cuomo
Subject: Barbara Jones agreed to do it subject to fast conflicts check

Sent from my iPhone

On Feb 27, 2021, at 1:30 PM, Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov> wrote:

Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy.

The matter was promptly escalated to special counsel. Ms. Bennett received the transfer she requested to a position in which she had expressed a long-standing interest, was thoroughly debriefed on the facts and

consulted regarding the resolution, and expressed satisfaction and appreciation for the way it which it was handled. The determinations reached at the time were that no further action was required and Ms. Bennett did not wish to pursue the matter further.

Although in no way required by law, the Governor has requested an independent investigation and all staff will cooperate in that endeavor. Former federal judge Barbara Jones will lead the investigation.

Sent from my iPhone

On Feb 27, 2021, at 1:24 PM, Peter Ajemian <[REDACTED]@exec.ny.gov> wrote:

Jesse just added this:

In a text message she sent to a friend, Charlotte recounted that Jill had said on June 10: "How can we do this? Do you want to stay or should we find you something outside?"

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Richard Azzopardi
Sent: Saturday, February 27, 2021 1:17 PM
To: Lis Smith; Josh Vlasto
Cc: Melissa DeRosa; Peter Ajemian; Jeffrey Pollock; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Stephanie Benton; Steven Cohen (esd.ny.gov); Christopher Cuomo
Subject: Re: latest draft

Minor grammar edit

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lis Smith
Sent: Saturday, February 27, 2021 1:15 PM
To: Josh Vlasto
Cc: Melissa DeRosa; Peter Ajemian; Jeffrey Pollock; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Richard Azzopardi; Stephanie Benton; Steven Cohen (esd.ny.gov); Christopher Cuomo
Subject: Re: latest draft

Sorry I dont' want to litigate this over email, but having just heard melissa read the statement over the phone, i feel like the second sentence/paragraph feels out of place.

Ms. Bennett has every right to speak out. She was a hardworking and valued member of our team during COVID. When she came to me and opened up about being a sexual assault survivor and how it shaped her, I tried to be supportive and helpful. The last thing I would ever have wanted was her to feel any of the things that are being reported.

Let me be clear, I have never made sexual advances toward women in the workplace. But this situation should not and cannot be resolved in the press

so I believe the best way to get to the truth is through a full and thorough outside investigation. I have asked XYZ to lead this investigation and I am directing all state employees to comply with her team.

On Sat, Feb 27, 2021 at 12:51 PM Josh Vlasto [REDACTED]@gmail.com> wrote:

Ms. Bennett has every right to speak out.

Let me be clear, I have never made sexual advances toward women in the workplace.

Ms. Bennett was a hardworking and valued member of our team during COVID. When she came to me and opened up about being a sexual assault survivor and how it shaped her, I tried to be supportive and helpful. The last thing I would ever have wanted was her to feel any of the things that are being reported.

This situation should not and cannot be resolved in the press so I believe the best way to get to the truth is through a full, thorough and independent investigation. I have asked XYZ to lead this investigation and I am directing all state employees to comply with her team.

On Sat, Feb 27, 2021 at 12:37 PM Josh Vlasto [REDACTED]@gmail.com> wrote:

Ms. Bennett has every right to speak out.

Let me be clear, I have never made sexual advances toward women in the workplace.

Ms. Bennett has been a hardworking and valued member of our team during COVID. I appreciate and respect the work she has done for us. When she came to me and opened up about being a sexual assault survivor and how it shaped her, I tried to be supportive. I never intended to be anything but supportive and helpful and the last thing I would ever have wanted was her to feel any of the things that are being reported.

This situation should not and cannot be resolved in the press so I believe the best way to get to the truth is through a full, thorough and independent investigation. I have asked XYZ to lead this investigation and I am directing all state employees to comply with her team.

On Sat, Feb 27, 2021 at 12:23 PM Josh Vlasto <[REDACTED]@gmail.com> wrote:

apologies
use this verison

Recent claims that I made sexual advances toward women in the workplace are untrue.

When Ms. Bennett came to me and opened up about being a sexual assault victim and how it shaped her, I tried to be supportive and relate to her sharing struggles in my own life. I never intended to be anything but supportive and constructive and I am sorry and deeply regret that she felt anything otherwise.

I have a different perspective on the dynamics of our interactions however absolutely respect a woman's right to speak out.

This situation should not and cannot be resolved in the press. I believe the best way to get to the truth is through a full, thorough and independent investigation to review these matters. I have asked XYZ to conduct this investigation and I am directing all state employees to comply with her team.

On Sat, Feb 27, 2021 at 12:21 PM Josh Vlasto <[REDACTED]@gmail.com> wrote:

Recent claims that I made sexual advances toward women in the workplace are untrue.

When Ms. Bennett came to me and opened up about being a sexual assault victim and how it shaped her, I tried to relate and be supportive, including sharing struggles in my own life. I never intended to be anything but supportive and constructive and I am sorry and deeply regret that she felt anything otherwise.

I have a different perspective on the dynamics of our interactions however absolutely respect a woman's right to speak out.

This situation should not and cannot be resolved in the press. I believe the best way to get to the truth is through a full, thorough and independent investigation to review these matters. I have asked XYZ to conduct this investigation and I am directing all state employees to comply with her team.

On Sat, Feb 27, 2021 at 8:40 AM Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

Sorry read this version -->

Ms. Bennett came to work in the governor's office for a short period of time.

During her time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice to proclaim her truth. The Governor tried to be supportive and suggested developing real friendships and healthy loving and positive emotional relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tatoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that he was lonely and ready for a girlfriend and that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. In that interview, Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor sexually harassed her or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. Ms. Bennett's initial impression that the governor was being 'paternalistic' and a 'mentor-mentee' was and remained correct.

We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued.

We believe the best way to affirm the truth on this and the matter involving Ms Boylan is through a full, fact-based and independent investigation by an outside counsel.

From: Melissa DeRosa

Sent: Saturday, February 27, 2021 8:32 AM

To: Josh Vlasto; Peter Ajemian

Cc: Jeffrey Pollock; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen (esd.ny.gov)

Subject: priv confidential - pls review this draft for the call [REDACTED] is putting on

Sorry read this version -->

Ms. Bennett came to work in the governor's office for a short period of time.

During her time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice to proclaim her truth. The Governor tried to be supportive and suggested developing real friendships and healthy loving and positive emotional relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tatoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that he was lonely and ready for a girlfriend and that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. In that interview, Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor harassed her in any way or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. Ms. Bennett's initial impression that the governor was being 'paternalistic' and a 'mentor-mentee' was and remained correct. We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued.

We believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel, including Ms. Boylan.

From: Melissa DeRosa

Sent: Saturday, February 27, 2021 8:05 AM

To: Josh Vlasto; Peter Ajemian

Cc: Jeffrey Pollock; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen (esd.ny.gov)

Subject: Re: privileged / confidential / draft

A different approach:

Ms. Bennett came to work in the governor's office for a short period of time.

During her time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice. The Governor tried to be supportive and suggested developing healthy friendships and supportive relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tatoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor harassed her in any way or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. Ms. Bennett's initial impression that the governor was being 'paternalistic' and a 'mentor-mentee' was and remained correct. We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued.

We believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel.

From: Josh Vlasto [REDACTED]@gmail.com>
Sent: Saturday, February 27, 2021 7:58 AM
To: Peter Ajemian
Cc: Jeffrey Pollock; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Lis Smith; Melissa DeRosa; Richard Azzopardi; Stephanie Benton; Steven Cohen (esd.ny.gov)
Subject: Re: privileged / confidential / draft

Seems right to me
Comes in a release I imagine with a sentence or two about the person picked?

On Sat, Feb 27, 2021 at 7:45 AM Peter Ajemian [REDACTED]@exec.ny.gov> wrote:
Relooping Josh

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Peter Ajemian
Sent: Saturday, February 27, 2021 7:18 AM
To: Lis Smith
Cc: Melissa DeRosa; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Stephanie Benton; Steven Cohen (esd.ny.gov); Jeffrey Pollock; Richard Azzopardi
Subject: Re: privileged / confidential / draft

Sounds right. One tweak in caps for clarity.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lis Smith
Sent: Saturday, February 27, 2021 12:52 AM
To: Peter Ajemian
Cc: Melissa DeRosa; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Stephanie Benton; Steven Cohen (esd.ny.gov); Jeffrey Pollock; Richard Azzopardi
Subject: Re: privileged / confidential / draft

removed "complex" and reworked a little:

I have nothing but respect for Charlotte and the work she did for the state. Understanding what she survived PREVIOUSLY IN HER LIFE, I would only want her to feel supported and valued. I believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review matters like this one and can recommend remedial steps if warranted.

On Sat, Feb 27, 2021 at 12:39 AM Lis Smith <[REDACTED]@gmail.com> wrote:
Additional option:

I have nothing but respect for Charlotte and the work she did for the state. Understanding what Charlotte survived the way I do, I never would have said anything to her that didn't make her feel supported and valued. I believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review complex matters like this one and can recommend remedial steps if warranted.

On Fri, Feb 26, 2021 at 11:39 PM Peter Ajemian <[REDACTED]@exec.ny.gov> wrote:
Understanding this needs work, here's an initial draft to discuss.

I have nothing but respect for Charlotte and the work she did for the state, and I have tremendous sympathy for what she had been through in her life. I regret and am saddened that she felt anything other than supported and valued at work, as I want nothing but the best for her. I have a different perspective on the dynamic presented here and believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review complex matters like this one and can recommend remedial steps if warranted.

On Feb 26, 2021, at 8:40 PM [REDACTED]@exec.ny.gov> wrote:

Plus Chris Cuomo

Sent from my iPhone

From: Peter Ajemian [REDACTED]@exec.ny.gov]
Sent: 3/9/2021 2:32:09 PM
To: DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]
CC: Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov];
Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD [REDACTED]@esd.ny.gov];
Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]
Subject: Re: Attorney Client privileged

Yes

Sent from my iPad

On Mar 9, 2021, at 2:27 PM, Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

Peter do u see this and r u doing?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Melissa DeRosa
Sent: Tuesday, March 9, 2021 2:21 PM
To: Beth Garvey; Linda A Lacewell (dfs.ny.gov); Peter Ajemian
Cc: Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul
Subject: Re: Attorney Client privileged

U have to explain what u mean on background - she claimed she tried to leave multiple times etc

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Beth Garvey
Sent: Tuesday, March 9, 2021 2:20 PM
To: Linda A Lacewell (dfs.ny.gov); Peter Ajemian
Cc: Melissa DeRosa; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul
Subject: Re: Attorney Client privileged

Not til friday

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Lacewell, Linda A (DFS)
Sent: Tuesday, March 9, 2021 2:20 PM
To: Peter Ajemian
Cc: Melissa DeRosa; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul
Subject: Re: Attorney Client privileged

Acting Counsel

Sent from my iPhone

On Mar 9, 2021, at 2:18 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

Shipping

Sent from my iPad

On Mar 9, 2021, at 2:16 PM, Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

Ok

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Peter Ajemian
Sent: Tuesday, March 9, 2021 2:15 PM
To: Melissa DeRosa; Linda A Lacewell (dfs.ny.gov); Beth Garvey
Cc: Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul
Subject: Re: Attorney Client privileged

Privileged/ Draft / Confidential

Spoke with Beth, Linda, Judy. Here's where we landed.

From Beth Garvey, Special Counsel & Senior Advisor: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate statements made in the press. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

On Mar 9, 2021, at 12:49 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

Talked thru with Linda. Here's a tweaked version. Beth, will Volforte agree this is accurate? Should these statements start coming from Mitra?

On Mar 9, 2021, at 12:13 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

PRIVILEGED / CONFIDENTIAL

Below is what the story looks like. Deadline is 1:30pm. Where did we land on the law?

I tried rewriting the response because we should not be attacking people who make allegations.

My recommendation is to break it up and have the first part from Mike Volforte (if he would be willing) and the second part from the chamber:

"As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate statements made in the press, as was the case in this situation as it related to the circumstances surrounding Ms. Boylan's departure. Given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time and cannot comment further at this time."

Timeline of the events in december – Boylan tweets
At the time gov was being considered for AG

Boylan had worked in Cuomo admin for over three years, final title was

Tweets on 11th and 13th

Essay on medium detailing interactions with gov and staff, specifically Lisa Shields allegation

Timing of other women who came forward – charlotte, anna ruch, anna liss.

On march 1, the gov asked AG to do independent investigation

Eric raises questions about why it took so long from boylan's initial tweets to the increase in attention from media, law enforcement – partially because Boylan chose not to talk to press

But also documents that were out there

Within hours of her tweets on dec 13 several outlets reported on the documents – AP described them as personnel memos, Post described personnel, TU docs and personnel records

Several women had complained about her as being Harassing, belittling, and yelled and general unprofessional

Cites from Post account that there were three black employees who complained to state HR about Boylan, who is white, of being a bully and treating them like children.

From the AP report, cites claim that Boylan resigned after being counseled about the complaints by a top admin lawyer

And then cites statement from Boylan attorney saying she had never seen those documents raised in the news accounts.

Statement from attorney saying expects AG to look into the leak of the documents; goes on to accuse the gov and his staff seeking to smear victims of sexual harassment.

Quotes from gov presser last week – supports a women's right to come forward and sorry for whatever pain and asked for time to be allowed due process and facts from ag before forming an opinin

Gov has had a history in the past of scorched earth and retaliation tactics.

Statement from Boylan attorney saying she believed she would be retaliated against for going public.

Cites convo with a former senior official in Cuomo admin that in his opnion there was no question the governor would be involved in the decision to release personnel records.

Cites prior reporting about Gaffney accusations – NYP: Gaffney said Cuomo would call her on weekends to berate her, accused him of sex discrimination in 2000, and retaliated against her. Cuomo spox this is nothing more than a diversion from her downloading pornogphrahy in her office and our efforts to get to the bottom of it.

Cites Michael Fiat from 2013 – he gave quotes to Daily Enterprise and the admin moved to fire him. When the press looked into it, an admin official at the time – Howard Glaser – did a radio interview reading aloud items from his personnel file including misconduct allegations including that he had an improper relationship with a subordinate.

Karen Hinton, during Legionnaires outbreak, gov didn't like a statement she gave and gov called city hall and said if you don't fire her then BdB would be personally blamed for the nyc deaths.

After leaving the de blasio administration she had a hard time finding work in political PR in her estimation because of Cuomo. NEED RESPONSE

Gov's attempt to intimate Ron Kim. Include Rich Azzopardi's denial of his allegations

Cites convos with workplace harassment lawyers who think that the release of the docs could have legal implications and could be seen as retaliatory against legally protected speech in violation of ny human rights law, and that it's a private use of government property for personal use of defending the gov.

Raises question that employees who raised concern against Boylan may have only wanted that done in private, and wouldn't have this sort of use in mind.

Spoke to good gov advocate who said the press needed to examine their role in the leak of the doc and that it's the admin's MO to bully and terrorize, and that the press may have been complicit in that. RESPONSE

Who leaked the docs?

Who approved it?

Was governor involved?

Cites ASC calling on gov to resign – speaker of assembly stops short of doing same

Quotes from conf call where gov says he won't resign

Yesterday the AG announced lawyers

An AG source says the leak of the documents may well be a subject that they investigate.

###

-----Original Message-----

From: Melissa DeRosa [REDACTED]@exec.ny.gov>

Sent: Tuesday, March 9, 2021 9:00 AM

To: Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Beth Garvey <[REDACTED]@exec.ny.gov>

Cc: Peter Ajemian <[REDACTED]@exec.ny.gov>; Richard Azzopardi <[REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) <[REDACTED]@esd.ny.gov>; Judith Mogul <[REDACTED]@exec.ny.gov>

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press -- she resigned when confronted by allegations of bullying and harassment of three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- in those instances, we would seek permission from GOER. However, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:54 AM

To: Linda A Lacewell (dfs.ny.gov); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press -- she resigned when confronted by allegations of bullying and harassing three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- in those instances, we would seek permission from GOER. However, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:51 AM

To: Linda A Lacewell (dfs.ny.gov); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press -- she resigned when confronted by allegations of bullying and harassing three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- however, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:25 AM

To: Linda A Lacewell (dfs.ny.gov); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

Subject: Re: Attorney Client privileged

Let's get on phone and discuss this am

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Original Message

From: Lacewell, Linda A (DFS)

Sent: Tuesday, March 9, 2021 6:50 AM

To: Beth Garvey

Cc: Peter Ajemian; Melissa DeRosa; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

Subject: Re: Attorney Client privileged

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Most toxic team environment? Working for @NYGovCuomo.

Jerry Avenaim @avenaim · Dec 5, 2020
Name the worse job you've ever had.

234 1.5K 9.2K

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
I've had many jobs. Waitressing at @Friendlys as a teenager was an infinitely more respectful environment. Even when I had bad customers who tipped poorly.

24 54 882

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
If people weren't deathly afraid of him, they'd be saying the same thing and you'd already know the stories.

26 85 1K

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Seriously, the messages and texts I receive when I speak the truth about this...it's a whole book of people who have been harmed.

9 53 859

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Don't be surprised that it's the same small group of white people sitting alongside him at every presser. The same group that he has had by him the whole time, doing his dirty work. If you're not one of those handful, your life working for him is endlessly dispiriting.

13 70 913

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
I tried to quit three times before it stuck. I've worked hard my whole life. Hustled - fake it till you make it style.

That environment is beyond toxic. I'm still unwrapping it years later in therapy!

20 39 776

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
And I'm a privileged person. I could opt out and eventually did. I shudder to think what happens to others. It pisses me off so much.

7 26 669

Lindsey Boylan @LindseyBoylan

Replying to @LindseyBoylan

Yes I did not sign whatever they told me to sign when I left. Nope!

6:13 PM · Dec 5, 2020 · Twitter for iPhone

← **Thread**

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

My first experience of workplace sexual harassment was when my mom got her first real office job after graduating from college when I was in high school.

She was so excited to be taken "seriously." Her bossed isolated her and kissed her. She never had that type of job again.

328 1.4K 7.5K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

It was then how I learned how hard it is for women. How hard this world can be for us when we are trying to be taken seriously and help our community. How easily jerks can destroy the lives of women.

58 327 3.7K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

And I promised myself I would never let those kind of guys win. I would work hard my whole life to put myself in positions of power to change things. To end the violence & corruption. Give voice to the voiceless.

I am not stopping. I refuse. I will never give up.

109 377 3.8K

Lindsey Boylan @LindseyBoylan

Replying to @LindseyBoylan

Yes, @NYGovCuomo sexually harassed me for years. Many saw it, and watched.

I could never anticipate what to expect: would I be grilled on my work (which was very good) or harassed about my looks. Or would it be both in the same conversation? This was the way for years.

9:16 AM · Dec 13, 2020 · Twitter for iPhone

9,686 Retweets 4,119 Quote Tweets 27.5K Likes

3 1 1 1

Tweet your reply Reply

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

Replying to @LindseyBoylan

Not knowing what to expect what's the most upsetting part aside from knowing that no one would do a damn thing even when they saw it.

No one.

And I "know" I am not the only woman.

202 1K 7.5K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

I'm angry to be put in this situation at all. That because I am a woman, I can work hard my whole life to better myself and help others and yet still fall victim as countless women over generations have. Mostly silently.

I hate that some men, like @NYGovCuomo abuse their power.

714 2K 11.1K

#	From	To	Direction	Body
199	[Redacted]	[Redacted] Linda Lacewell (owner) - Read: 3/12/2021 6:37:42 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Incoming	There is now another woman. I think it's over in the court of public opinion.
200	Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:37:56 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	Today??
201	Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:38:18 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	I don't think so
202	[Redacted]	[Redacted] Linda Lacewell (owner) - Read: 3/12/2021 6:38:44 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Incoming	Just now. NY Magazine Reporter-Bakeman. Call me?
203	[Redacted]	[Redacted] Linda Lacewell (owner) - Read: 3/12/2021 6:39:23 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Incoming	On CNN. They put quotes from her article on the screen.
204	Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:39:35 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	That article already ran



205	[Redacted] Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:39:42 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	I'm on phone
206	[Redacted]	[Redacted] Linda Lacewell (owner) - Read: 3/12/2021 6:40:09 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Incoming	They said it was "just in".
207	[Redacted] Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:40:20 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	https://nymag.com/intelligencer/article/andrew-cuomo-sexual-harassment-albany-reporter.html
208	[Redacted] Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:40:20 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	Not a claim of harassment
209	[Redacted] Linda Lacewell	[Redacted] - Delivered:3/12/2021 6:40:40 PM(UTC-5) [Redacted]@gmail.com Linda Lacewell (owner)	Outgoing	Everything is always "just in"

<p>210</p>	<p>[Redacted]</p>	<p>██████████ Linda Lacewell (owner) - Read: 3/12/2021 6:47:35 PM(UTC-5) ██████████@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>It goes to the toxic culture that uses the physical touch of women to demean and control them. It's clearly a pattern with him. The "going steady" remark is evidence of his lack of judgment or control in this sphere. You don't flirt with people when you are the Governor and/ or their boss to make them obey or write nice things about you. It's just not the way things are done in this post #metoo moment. To me, as a victim of this type of behavior, all of his statements and denials are tone deaf. And his arrogance further proves his need to control by daring people to impeach him. Just like Trump.</p>
<p>211</p>	<p>██████████ Linda Lacewell</p>	<p>[Redacted] - Delivered:3/12/2021 6:47:52 PM(UTC-5) ██████████@gmail.com Linda Lacewell (owner)</p>	<p>Outgoing</p>	<p>Yes. But it's not a new woman is my only point</p>
<p>212</p>	<p>[Redacted]</p>	<p>██████████ Linda Lacewell (owner) - Read: 3/12/2021 6:50:44 PM(UTC-5) ██████████@gmail.com Linda Lacewell (owner)</p>	<p>Incoming</p>	<p>Sorry. I hadn't heard of it before - and was taken in by the "just in"! [Redacted]</p>

From: Peter Ajemian [REDACTED]@exec.ny.gov]
Sent: 3/15/2021 4:07:17 PM
To: DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]
CC: Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com]
Subject: Re: Priv and Confidential - CURRENT DRAFT

DRAFT

Stephanie - OK?

LB says in 2018 the gov made fun of benton's haircut so often that Benton cried about it in front of lindsey.

From Stephanie Benton: "That's not right. The Governor has always treated me with decency and respect."

From: Peter Ajemian
Sent: Monday, March 15, 2021 2:55 PM
To: Melissa DeRosa; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

Ok. I'm shipping the updated answer from Gov and Beth's additional line, and I'll tell him I'll have an answer on Rob soon.

From: Melissa DeRosa
Sent: Monday, March 15, 2021 2:04 PM
To: Peter Ajemian; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

yes and when they walk us through the story i still reserve the right to re-raise the point on the LB argument she and i had

From: Peter Ajemian
Sent: Monday, March 15, 2021 1:59 PM
To: Melissa DeRosa; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

So I'm not missing something, it's the one change at the end right?

EXHIBIT
26

From: Melissa DeRosa

Sent: Monday, March 15, 2021 1:56 PM

To: Beth Garvey; Peter Ajemian; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Re: Priv and Confidential - CURRENT DRAFT

there were some changes from last night that did make it into the final draft -see highlighted below

Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD NOTE: How would Lindsey know who released the information? What is the basis for her assertion? We can't get into the specifics because of the AG's review, but it would be inaccurate to say Melissa was the one who gave the information to the press.

Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him."

Re Jill's email, from a spokesperson: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team—male and female – would be attending Governor events."

From a spokesperson: "All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard."

She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo

on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.

From a spokesperson: Lindsey was not even on the flight. Lindsey was not needed for the return flight and it was not a point of contention.

Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.

From a spokesperson: "Stephanie does not believe this is true." (If needed Stephanie will say this on the record.)

On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –

Please refer back to Abbey Collins previous statement which still stands – see below:

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

She reiterates her claim that the governor kissed her on the lips in 2018.

From Gov Cuomo: this did not happen.

From: Beth Garvey
Sent: Monday, March 15, 2021 1:55 PM
To: Peter Ajemian; Jeffrey Pollock; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: RE: Priv and Confidential - CURRENT DRAFT

Prefer this.

From: Peter Ajemian [REDACTED]@exec.ny.gov>
Sent: Monday, March 15, 2021 1:53 PM
To: Beth Garvey <[REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Melissa DeRosa <[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>
Cc: Stephanie Benton <[REDACTED]@exec.ny.gov>; Lis Smith <[REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>
Subject: Re: Priv and Confidential - CURRENT DRAFT

Beth, OK?

Additional statement from Beth Garvey, acting counsel: "Due to the ongoing review by the Attorney General, we will not provide any documents at this time."

And then I'm going to say over the phone, off the record there's nothing additional we will provide at this time given the review - if the changes in the future I will of course keep you in mind. And I think it would make sense to move to the fact checking phase and we will see if there's anything further we need to correct or comment on.

From: Peter Ajemian
Sent: Sunday, March 14, 2021 11:09 PM
To: Beth Garvey; Jeffrey Pollock; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

I'm leaving it out for now and sending the rest

From: Beth Garvey
Sent: Sunday, March 14, 2021 11:02 PM
To: Jeffrey Pollock; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

This is safer, but not without risk- it's all new.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Beth Garvey
Sent: Sunday, March 14, 2021 10:49 PM
To: Jeffrey Pollock; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

Lindsey routinely circumvented the senior staff and went directly to the governor which disrupted communication and organization and was an ongoing source of tension.

I don't think we have said this before.

It's fine if in fact she was asked many times, I thought we didn't know that factually.
Still could be retaliation.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Jeffrey Pollock
Sent: Sunday, March 14, 2021 10:41 PM
To: Beth Garvey; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)
Cc: Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: RE: Priv and Confidential - CURRENT DRAFT

Beth look at the version that Melissa just sent which is close to what we said before. That's what I would like to do.

From: Beth Garvey [REDACTED]@exec.ny.gov>
Sent: Sunday, March 14, 2021 10:40 PM
To: Melissa DeRosa [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Peter Ajemian [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>
Cc: Stephanie Benton [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>
Subject: Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

This is new- we haven't said it, and i'm not sure our records reflect this. It's our "recollection" but the records previously released don't have this fact. It is completely relevant, but it can also look like we are inventing facts to suit us.

If, like you said, there's no there there with this story, and we are just pushing back on an anecdote you acknowledged to all of us earlier is true, we are just creating *new* liability for a retaliation claim that is ultimately gov's personally.

So his lawyers should weigh in.

It is purely our discretion to release records or disclose, so motive is what carries this. Is anecdote false? No, it's true, you said it was true, so it is just us taking a shot at her. This is something that creates significant risk. I would say no.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Melissa DeRosa
Sent: Sunday, March 14, 2021 10:34 PM
To: Jeffrey Pollock; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)
Cc: Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

if we cant send this i'd like to understand legally why. we cannot just send the hostile work envior quote which doesnt answer the quesiton

Lindsey routinely circumvented the senior staff and went directly to the governor which disrupted communication and organization. She was asked many times not to go to the Governor directly but to follow protocol and refused, which was an ongoing source of tension - - the opposite dynamic that lindsey now claims.

From: Jeffrey Pollock [REDACTED]@globalstrategygroup.com>
Sent: Sunday, March 14, 2021 10:30 PM
To: Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)
Cc: Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

Lawyers need to either overrule or not. The lawyers should have the priority on this Melissa

Jeffrey Pollock
President
D [REDACTED]
M [REDACTED]
My pronouns: he, him, his

From: Melissa DeRosa [REDACTED]@exec.ny.gov>
Sent: Sunday, March 14, 2021 10:26:50 PM
To: Peter Ajemian [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>
Cc: Beth Garvey [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>
Subject: Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

The entire point is to make clear that despite the fact that she is saying she was afraid and didn't want to be near him the point is that she was constantly going to him directly

From a spokesperson: "Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration for members of the staff that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was 'afraid' of the Governor."

From: Melissa DeRosa
Sent: Sunday, March 14, 2021 10:24 PM
To: Peter Ajemian; Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock
Cc: Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

i do NOT agree

we are not giving that answer to that question -we need to be direct and factual here

From: Peter Ajemian

Sent: Sunday, March 14, 2021 10:15 PM

To: Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock

Cc: Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Re: Priv and Confidential - CURRENT DRAFT

we can do more work during fact checking

From: Peter Ajemian

Sent: Sunday, March 14, 2021 10:15 PM

To: Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock

Cc: Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Re: Priv and Confidential - CURRENT DRAFT

ok. fixing that and shipping

From: Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov>

Sent: Sunday, March 14, 2021 10:12 PM

To: Jeffrey Pollock

Cc: Peter Ajemian; Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Re: Priv and Confidential - CURRENT DRAFT

nothing about these exchanges IS unique or interesting in this regard."

Sent from my iPhone

On Mar 14, 2021, at 10:07 PM, Jeffrey Pollock [REDACTED]@globalstrategygroup.com> wrote:

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

I'm good as long as you all have fully litigated the last point and we don't need to go back to where we were.

From: Peter Ajemian [REDACTED]@exec.ny.gov>

Sent: Sunday, March 14, 2021 10:06 PM

To: Beth Garvey [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) [REDACTED]dfs.ny.gov>

Cc: Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov)

██████████@esd.ny.gov>; Mitra Hormozi ██████████@wmhlaw.com>

Subject: Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.

Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?

Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

Re Jill's email: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team— male and female – would be attending Governor events."

From a spokesperson: "All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard."

She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo

on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.

From a spokesperson: Lindsey was not even on the flight. Lindsey was not needed for the return flight and it was not a point of contention.

Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record

On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –

Please refer back to Abbey Collins previous statement which still stands – see below:

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

She reiterates her claim that the governor kissed her on the lips in 2018.

From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things deteriorated

From Rich Azzopardi, senior advisor to the governor: "There is no secret these are tough jobs, and the work is demanding, but we have a top tier team with many employees who have been here for years and many others who have left and returned because they know the work we do matters, a fact that was underscored throughout COVID."

From: Beth Garvey

Sent: Sunday, March 14, 2021 9:16 PM

To: Peter Ajemian; Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

Cc: Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Re: Priv and Confidential - CURRENT DRAFT

I reframed it slightly, it may work at the end as far as contradicting "fear"

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Peter Ajemian

Sent: Sunday, March 14, 2021 8:52 PM

To: Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

From: Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi
Subject: Re: Priv and Confidential - CURRENT DRAFT

also - what does this get us?

This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber.

From: Melissa DeRosa

Sent: Sunday, March 14, 2021 8:14 PM

To: Peter Ajemian; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

Cc: Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

Subject: Priv and Confidential - CURRENT DRAFT

Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.

Will look like WSJ – about calls that were made and tenor.

Her ongoing and continued claim that those calls were intimidating or intended to suss out what her plans were or cast aspersions about her.

Melissa and Rich and Abbey Collins are mentioned.

From Rich Azzopardi, senior advisor to the Governor: “After Ms. Boylan’s tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up.”

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Fixated on her – her characterization of him – her interpretation of these events was he was repeatedly inquiring about her and in their own interactions, eye contact, touching, and signaling his interest in ways she found uncomfortable

Incremental new pieces of communiques – from editorial and fact checking standpoint – a cache of communications similar to what we’ve already seen – Stephanie Benton email from March 2017 sharing the governor’s pin, responding to Lindsey getting a bberry, “Smiley face. Feel free to pin gov. he’ll be very happy to hear from you.” about her being issued a bberry with pin capacity and that’s something the gov will be happy about -

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From a spokesperson: “This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber. Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was ‘afraid’ of the Governor.”

From: Lacewell, Linda A (DFS) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=69309E35F45E4FDBA42B16AFAEF09ACB-LACEWELL, L]
Sent: 3/18/2021 8:54:34 PM
To: Lis Smith [REDACTED]@gmail.com]
CC: DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Mitra Hormozi [REDACTED]wmhlaw.com]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]
Subject: Re: Privileged

MDR leave as it was

Sent from my iPhone

On Mar 18, 2021, at 8:51 PM, Lis Smith [REDACTED]@gmail.com> wrote:

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Do not say former disgruntled employees - you can't

On Thu, Mar 18, 2021 at 8:43 PM Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:

"Melissa is one of the smartest, most accomplished, and hardest working public servants in government. Former disgruntled employees continuing to reduce her to a stiletto wearing sexist trope is transparent and ridiculous."

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Peter Ajemian
Sent: Thursday, March 18, 2021 8:22 PM
To: Jeffrey Pollock; Lis Smith
Cc: Beth Garvey; Linda A Lacewell (dfs.ny.gov); Melissa DeRosa; Mitra Hormozi
Subject: Re: Privileged

Ok?

"Melissa is one of the smartest, most accomplished and hardest working public servants in government. Enough with the sexist name calling."

From: Jeffrey Pollock
Sent: Thursday, March 18, 2021 8:04 PM
To: Lis Smith; Peter Ajemian
Cc: Beth Garvey; Linda A Lacewell (dfs.ny.gov); Melissa DeRosa; Mitra Hormozi
Subject: Re: Privileged

Agreed

EXHIBIT

27

Jeffrey Pollock
President

D [REDACTED]
M [REDACTED]

My pronouns: he, him, his

From: Lis Smith <[REDACTED]@gmail.com>

Sent: Thursday, March 18, 2021 8:03:14 PM

To: Peter Ajemian <[REDACTED]@exec.ny.gov>

Cc: Beth Garvey <[REDACTED]@exec.ny.gov>; Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Melissa DeRosa <[REDACTED]@exec.ny.gov>; Mitra Hormozi

<[REDACTED]@wmhlaw.com>

Subject: Re: Privileged

[EXT EMAIL]

I'm not sure "name calling" coming from you guys is super credible

Maybe- enough of the sexist name calling

On Thu, Mar 18, 2021 at 7:47 PM Peter Ajemian <[REDACTED]@exec.ny.gov> wrote:

Draft

For the Ronan Farrow piece, how about this in response to Lindsey saying Melissa is a "mean girl":

"Melissa is one of the smartest, most accomplished and hardest working public servants in government. Enough with the sexist characterizations and name calling."

 **Lindsey Boylan** 
@LindseyBoylan

To be clear: I have no interest in talking to journalists.

I am about validating the experience of countless women and making sure abuse stops.

My worst fear is that this continues. And as [@FKAtwigs](#) said yesterday, my second worst fear is having to talk about and relive this.

10:00 AM · Dec 13, 2020 · Twitter for iPhone

111 Retweets 63 Quote Tweets 1,396 Likes



 Tweet your reply

Reply

