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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KONNECH, INC., . 4:22-CV-03096  
. HOUSTON, TEXAS  
PLAINTIFF, . OCTOBER 6, 2022  
VS. . 1:59 P.M.  
. .  
TRUE THE VOTE, INC., .  
GREGG PHILLIPS AND .  
CATHERINE ENGELBRECHT, .  
DEFENDANTS. .  
.....

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE

**APPEARANCES**

FOR THE PLAINTIFF:

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**APPEARANCES - CONTINUED**

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**PROCEEDINGS**

THE COURT: Gentlemen, this matter was reset from a previous setting until today. This is Cause Number 22-3096, Konnech, Inc., versus True the Vote, Incorporated, Gregg Phillips and Catherine Englebert.

Who is here on behalf of the plaintiff?

MR. PAMPHILIS: Your Honor, Dean Pamphilis and Nathan Richardson with Kasowitz Benson Torres here on behalf of plaintiff, Konnech, Inc.

THE COURT: Let me get that again. I'm sorry. Give me those names again.

MR. PAMPHILIS: Dean Pamphilis.

THE COURT: I show you on the docket sheet. And who else?

MR. PAMPHILIS: Nathan Richardson.

THE COURT: And representing the defendant True the Vote, Incorporated?

MR. AKERS: Good afternoon, Your Honor. I'm Brock Akers and Mark Brewer.

THE COURT: Who is representing Phillips?

MR. AKERS: We all are.

THE COURT: And you are also representing Engelbrecht?

MR. AKERS: Yes, Your Honor.

THE COURT: Okay. Very good.

All right, gentlemen. I need to look at or -- at

13:59 1 least have some matters presented to me. This case seems to be  
2 one where the lawyers are intent on -- and other parties are  
3 intent on trying the case -- or the issues in the media. And I  
4 need to know what's going on.

14:00 5 So let me ask you, Mr. Pamphilis, if you would  
6 bring the Court up on what was -- what you filed and what you  
7 have so we can get a response from opposing counsel. I might  
8 have some questions that I need to ask, as well.

14:00 9 This originally was to be a temporary injunction  
10 hearing -- I mean a preliminary injunction or a temporary  
11 injunction. A temporary restraining order was entered in the  
12 matter, and that was reset, I believe, by agreement of the  
13 parties.

14 Is that correct, Mr. Akers?

14:00 15 MR. AKERS: It was reset until today.

16 THE COURT: So those are the dates on that. So the  
17 question now is: Where do we go from here and what is it that  
18 you have and what is before the Court?

14:00 19 Go ahead and proceed. Pull the microphone at  
20 least closer to you so you can speak directly into it, please.

21 MR. PAMPHILIS: Thank you, Your Honor.

22 So correctly you recalled, a TRO was issued in  
23 this case 24 days ago, on September 12th. It was done  
24 ex parte.

14:01 25 After defendants were served, they ultimately --

14:01 1 and the TRO was about to expire, they asked to reschedule  
2 because their witnesses were unavailable. We rescheduled --

3 THE COURT: What witnesses were unavailable?

4 MR. PAMPHILIS: I understood that Defendants Gregg  
14:01 5 Phillips and Catherine Engelbrecht were unavailable at the  
6 time, out of state or out of country.

7 THE COURT: All right.

8 MR. PAMPHILIS: And so the parties agreed to  
9 reschedule until today. As part of that agreement, they agreed  
10 to extend the expiration date of the TRO to the earlier of the  
11 date on which an agreed preliminary injunction was submitted to  
12 Your Honor and signed. We made efforts to have that happen.  
13 It appears now, based on the response to our motion for  
14 preliminary injunction last night, that's not going to happen.

14:02 15 The other date for expiration of the TRO was upon  
16 the Court's decision on our motion for preliminary injunction.

17 So, Your Honor, two days ago, on Tuesday, I  
18 contacted --

19 THE COURT: Hold on just one second. I think I left  
14:02 20 my -- I have it here. I'm sorry. Go ahead.

21 MR. PAMPHILIS: Two days ago, on Tuesday, I contacted  
22 the Court to advise them that my client representative, Eugene  
23 Yu, who is the president of Konnech, was not going to be  
24 available for today's hearing. He has been detained, we  
14:02 25 contend wrongfully, by county authorities in Michigan, and this

14:02 1 is something that has been all over the press.

2 But just to address it briefly, Your Honor, LA  
3 County is a client of Konnech, and LA County issued a directive  
4 to have Mr. Yu arrested in Michigan where he lives, claiming,  
14:03 5 as best we can tell -- and this is only in the press -- because  
6 I have not seen an indictment. My understanding is it is  
7 sealed -- claiming that he had stolen LA County's poll worker  
8 data and placed it on a server in China.

9 First of all, Your Honor, Konnech has a contract  
10 with LA County through which it would obtain this poll worker  
11 data, and Konnech insists that that was never stored outside of  
12 the United States, as stated in the affidavit that Mr. Yu  
13 submitted with our motion for TRO.

14 THE COURT: Let me ask you a question about that.  
15 When you say "data," are you talking about the names and  
16 addresses, phone numbers, that kind of data? Is there anything  
17 that Konnech has received or obtained that was not a part of  
18 what was released by, let's say, LA County or wherever they  
19 might be doing business?

14:04 20 MR. PAMPHILIS: So LA County's DA, the very day that  
21 Mr. Yu was arrested, issued a one-page press release, as did  
22 True the Vote.

23 And in that release from LA County, he claimed  
24 that the data that was stolen had personal identifying  
14:04 25 information.

1 THE COURT: Well, does it have personal identifying  
2 information, the information he received? That's what I'm  
3 asking.

4 MR. PAMPHILIS: The only information that Mr. Yu or  
5 Konnech would have would have been received from LA County, and  
6 it would be poll worker data, like the type that we are  
7 protecting in this case, which would have information like  
8 Social Security numbers, bank account records.

9 Now, it's important, Your Honor, to note that the  
10 LA County DA specifically says in his press release that he  
11 does not know of any attempt by Mr. Yu or Konnech to sell that  
12 information to anybody.

13 So the reason I bring it up -- and I know that  
14 they made an issue of it in their response, but it is  
15 important, Your Honor, that what he is claiming in his press  
16 release is essentially that my client breached the contract  
17 they had with LA County which said that they were to hold that  
18 data on U.S. servers.

19 So without knowing anything more than what's in  
20 the press release, it appears to me that Mr. Yu was arrested  
21 because of a breach of contract by Konnech, the company that he  
22 works for and that he's the president of.

23 And so at the time that I called on Tuesday, he  
24 had been detained in Michigan, and I did not believe he would  
25 be released in time to be at today's hearing, so I contacted

14:05 1 the Court to let them know that.

2 I understand while we have been sitting here  
3 waiting, that he was granted bail, but I don't know the  
4 conditions of it, other than he needs to report on his own to  
14:05 5 LA County to deal with this matter.

6 Now, Your Honor, I don't believe that --

7 THE COURT: Do you know when he is to report to LA  
8 County?

9 MR. PAMPHILIS: I believe it's by October 14th.

14:06 10 THE COURT: That would be next week?

11 MR. PAMPHILIS: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. PAMPHILIS: Your Honor, to be clear, I don't  
14 believe that the wrongful arrest of Mr. Yu has anything to do  
15 with this matter and this preliminary injunction. This case is  
14:06 16 about the defendants' admitted hacking into Konnech's computer  
17 and taking poll worker data, the very same type of poll worker  
18 data that Mr. Yu ended up in jail over. The difference is that  
19 Mr. Yu, being the president of Konnech, had a contractual right  
14:06 20 to have that data. The defendants did not. It's sensitive  
21 data. As I noted during the TRO hearing, it has very personal  
22 information that, in the hands of identity thieves, could be  
23 exploited, and there's no allegation by the LA County DA to  
24 this point that I have seen that Mr. Yu has attempted to sell  
14:07 25 it or has sold it.



14:07 1 Now, I mentioned also that the defendants issued  
2 a press release the same day that Mr. Yu was arrested, claiming  
3 some responsibility for what happened in LA County.

4 THE COURT: Claiming responsibility or taking credit?

14:07 5 MR. PAMPHILIS: Taking credit, Your Honor.

6 THE COURT: Okay.

7 MR. PAMPHILIS: And they issued a press release that  
8 was carefully worded but, separately, on Truth Social, they had  
9 pictures that you would expect to see when someone has won the  
10 lottery. They were all posing for pictures, claiming they took  
11 down Eugene Yu. Frankly, I think it's offensive. It's  
12 ludicrous, but I think as to what's important to what the Court  
13 has to decide today, it's really not relevant. And to the  
14 extent that they are going to claim it's relevant, all it does  
15 is demonstrate the importance of the data that we're trying to  
16 protect and their culpability -- they, the defendants, who had  
17 no contractual right to have the poll worker data -- their  
18 culpability in having that data in the first place.

19 Your Honor, once I realized that Mr. Yu wasn't  
14:08 20 going to be available for the hearing, we did a bit of  
21 research. And there is Fifth Circuit precedent that says that  
22 the Court can consider a preliminary injunction without live  
23 testimony so long as there is no genuine issue of material  
24 fact.

14:08 25 What you have before you, Your Honor, on this

14:08 1 motion for preliminary injunction is when we filed the motion  
2 for TRO, we included a motion for preliminary injunction. We  
3 attached Mr. Yu's affidavit. We included videos of podcasts,  
4 statements made by the defendants confirming that they were  
14:08 5 involved in accessing a Konnech server in China and that they  
6 saw --

7 THE COURT: I'm sorry. Who was responsible? Oh,  
8 that's part of what you have included in the pleading? That's  
9 what you're referring to?

14:09 10 MR. PAMPHILIS: Yes, Your Honor. What I'm driving at  
11 here is, the only evidence before the Court is Mr. Yu's  
12 affidavit that we submitted on September 12th in support of the  
13 TRO and in support of the preliminary injunction. We didn't  
14 get a response to that motion for preliminary injunction until  
14:09 15 late last night. There was no evidence attached. There is  
16 attorney argument, but there's no evidence.

17 So my point simply there is, Your Honor, there is  
18 no genuine issue of material fact. We presented evidence in  
19 the form of the defendants' own statements that show that they  
14:09 20 were involved in accessing and took possession of this data.

21 And so, Your Honor, I think that you can rule on  
22 this on the papers, and if you are so inclined to consider it,  
23 I will continue on with the argument. And I will add, if you  
24 want to rule on the papers without testimony and you believe it  
14:09 25 would be of benefit, we would be happy and would want to submit

1 a reply to what was filed last night.

2 THE COURT: In a sense, there are several different  
3 aspects of this proceeding that are somewhat puzzling to me in  
4 the sense that, generally speaking, as you know, a preliminary  
5 injunction would necessitate generally some testimony or some  
6 evidence. Of course, the evidence is what it is.

7 The question that I have is whether or not there  
8 is -- among the papers -- and maybe that was a part of the  
9 motion that I just briefly looked over a few minutes ago. I  
10 said "motion," but the defendants' opposition. It may be that  
11 that's where I saw some kind of indication that your client's  
12 servers and other electronic matters have been seized.

13 Are you aware of any of that?

14 MR. PAMPHILIS: Yes, Your Honor. In connection with  
15 the arrest of Mr. Yu, LA County had a search warrant and went  
16 to Mr. Yu's home and to Konnech's office and seized electronic  
17 information. However, the data that they have --

18 THE COURT: The data that they have?

19 MR. PAMPHILIS: I'm sorry. That my client has, they  
20 still have it, in other words. Even though those computers  
21 were seized, it resides in a manner that they can access it  
22 still.

23 THE COURT: With respect as to --

24 MR. PAMPHILIS: Who seized it.

25 THE COURT: -- who seized it. My concern, however,

14:11 1 has to do primarily with how that equipment might be utilized  
2 or misused. That would be my concern. And so the question of  
3 them, that is LA Police Department, seizing the equipment,  
4 would that be the only source of -- would that be the only -- I  
14:12 5 said not the only, but would that be -- is there a way in which  
6 your client now has exposure of someone taking his equipment  
7 and playing the game with it of sending information someplace?

8 MR. PAMPHILIS: It's in the possession -- as I  
9 understand it, it was taken into possession by -- I don't know  
14:12 10 which county in Michigan but --

11 THE COURT: Where was he arrested, by the way?

12 MR. PAMPHILIS: He was arrested in Michigan where he  
13 lives.

14 THE COURT: So that's where the equipment is located?

14:12 15 MR. PAMPHILIS: Yes.

16 THE COURT: And it is LA PD's arrest warrant and  
17 search warrant that was executed where?

18 MR. PAMPHILIS: In Michigan, by county authorities in  
19 Michigan.

14:12 20 THE COURT: At his business?

21 MR. PAMPHILIS: At his business and at his home.

22 THE COURT: Okay.

23 MR. PAMPHILIS: And my understanding, again, very  
24 limited, is it would be county authorities, county officials  
14:12 25 who have it, and I understand that the intent was to take what

14:12 1 they seized back to LA, because that is who is wanting to  
2 charge --

3 THE COURT: Well, who seized it?

4 MR. PAMPHILIS: I believe it was seized by the local  
14:13 5 police.

6 THE COURT: That would be the Michigan police or  
7 sheriff or --

8 MR. PAMPHILIS: There were also LA County -- there was  
9 an LA County investigator with them. My understanding is that  
10 person or his team were taking what they gathered back to LA.

11 THE COURT: All right. Is it your position now -- so  
12 I can get a response from opposing counsel -- is it your  
13 position now that the defendants are in violation of the  
14 temporary restraining order?

14:13 15 MR. PAMPHILIS: Yes, Your Honor.

16 THE COURT: Would you tell me in what ways you  
17 understand them to be in violation?

18 MR. PAMPHILIS: Absolutely, Your Honor.

19 So we filed a motion to show cause and finding of  
14:13 20 contempt. This TRO has been in place since September 12th, 24  
21 days. It was based on, you know, as I said, public statements  
22 they had made, threats to disclose information.

23 Even though they agreed to extend it -- and it is  
24 still in effect today -- they have repeatedly refused to comply  
14:14 25 with it, despite our multiple attempts to get their compliance.

14 : 14 1 And specifically when you look at the TRO, Your Honor, I want  
2 to direct the Court's attention to Subsections 5, 6 and 7.

3 THE COURT: Hold on just one second.

4 Are you talking about the small letter 5, 6,  
14 : 14 5 and 7?

6 MR. PAMPHILIS: Yes, the romanettes.

7 THE COURT: Go ahead.

8 MR. PAMPHILIS: It is indisputable they are in  
9 violation of these. Now, we pressed them -- obviously, the  
14 : 15 10 reason we included these and asked the Court to enter them, we  
11 wanted to know how they got the data in the first place, who  
12 was involved and who else might have it, so that we could  
13 continue to protect that data.

14 What we knew and what we attached to our motion  
14 : 15 15 for TRO were the statements of the defendants where Defendant  
16 Gregg Phillips claims that his guys -- and I say that in quotes  
17 because that's his words -- and his analysts and his team  
18 invited him to the Anatole Hilton Hotel in Dallas, Texas, back  
19 in January. And he got there at midnight, and his guys then  
14 : 15 20 connected to the TV monitor in that room. He said they placed  
21 towels under the doors. It was like James Bond is what he  
22 said, and it took them four and a half hours to get the data to  
23 come up on the screen. He said what he was told was the data  
24 that was coming up were from the Konnech server in China, and  
14 : 16 25 that it was millions and millions of records on U.S. poll

1 workers. In other words, he admitted that he was looking at  
2 this data from our server in China.

3 Now, he claims that he then was provided with a  
4 hard drive that contained all of that data; that he drove it  
5 down to Houston to meet with Catherine Engelbrecht. What  
6 happened from that in that meeting, we don't know. We haven't  
7 seen any affidavits or testimony from them. We just have  
8 unsworn contradictory statements about it. But they claimed  
9 that they then turned it over to the FBI, and it became an FBI  
10 matter, and because of that, they can't comply with your order  
11 because they gave it to the FBI.

12 I told them that is unacceptable. That is  
13 contempt of court. They have notified the FBI -- in a sealed  
14 letter to Your Honor, they copied them and gave Your Honor, I  
15 understand, the name of an individual that they claim got the  
16 data in that Dallas hotel room.

17 THE COURT: You have not received the name of that  
18 person?

19 MR. PAMPHILIS: No, Your Honor. I pressed for it, and  
20 they have not given it to me. But I emphasize that I  
21 understood what they were giving you was the name of one  
22 person, but going back to my statement, the one I was quoting a  
23 moment ago, is every time they referred to how they got it  
24 prior to this lawsuit being filed, they referred to plural,  
25 people, guys, analysts, team, the team of people. And when I

14:17 1 pressed them on it, the first thing I got back was a letter  
2 from Mr. Akers saying this was an independent contractor who --

3 THE COURT: "This" meaning the fellow in Dallas?

4 MR. PAMPHILIS: Yes, Your Honor.

14:18 5 THE COURT: Or whoever it is whose name was given?

6 MR. PAMPHILIS: This independent contractor contacted  
7 Mr. Phillips and told him that he had this information. Why  
8 don't you come up here and see it? They make it sound like  
9 they didn't know this guy, but he spent the night in a hotel  
10 room with this guy in Dallas, four and a half hours, waiting  
11 for this information to come up. I suspect he knew this person  
12 quite well, or he is a very trusting individual. I don't know  
13 which one. But my point being it is more than one person, and  
14 they started out by saying it's an independent contractor. And  
15 then it became, as I said in my motion, like a game of cat and  
16 mouse, because initially he said, Well, what they accessed was  
17 not a protected computer, as the term is used in the motion and  
18 in the order.

19 THE COURT: "They" meaning the fellows in the hotel?

14:18 20 MR. PAMPHILIS: Yes.

21 THE COURT: Or whoever was doing it?

22 MR. PAMPHILIS: And they said because they were able  
23 to access it using a default password. So I wrote back and I  
24 said, I don't think you understand what a protected computer  
14:18 25 is. You have to go back and look at our motion, but a



14:19 1 protected computer simply can mean a computer that is connected  
2 to the Internet. In this case, it's much more than that. And  
3 they -- in fact, by saying they used the default password, they  
4 are admitting a violation of the federal anti-hacking act  
14:19 5 because that shows that access was limited and that their  
6 access was unauthorized. It wasn't an open website. Like if  
7 you go to LinkedIn and look at a page, you need a password.

8 Your Honor, it's the same as if I accidentally  
9 left the key to my house in my front door or under my mat, and  
10 someone came along and found it and opened my door and came  
14:19 11 into my house. That's breaking and entering. It is no  
12 different if you happen to stumble on a password.

13 So, Your Honor, we don't have the name of the  
14 people who accessed this data. There have been no attempts to  
14:19 15 comply with Sections 6 or 7.

16 THE COURT: Let me see. Number 5 says in order to  
17 identify the individuals. That's what you just addressed?

18 MR. PAMPHILIS: That's correct.

19 THE COURT: And that has not been done? Order to  
14:20 20 confidentially disclose to Konnech how, when and where -- or by  
21 whom, should I say, Konnech's protected computer was accessed.  
22 That has not happened is what you are saying?

23 MR. PAMPHILIS: Yes, Your Honor. And, most  
24 importantly, is Number 7. Who else has this information?  
14:20 25 Perhaps Number 5 will tell us Number 7, but we don't know. We

1 want to know everybody who has had this information. Because  
2 Mr. Phillips had in as many podcasts and after -- this is very  
3 important. After he turned it over to the FBI, he  
4 recognized -- he stated to his followers, I turned this over to  
5 the FBI as soon as I got it, and then the FBI started  
6 investigating me, meaning Defendant Phillips.

7 He then continued to say to his followers, And  
8 I'm going to release this data to you. I'm going to publicly  
9 disclose it.

10 That's at odds with what I think you are going to  
11 hear, which is, We don't have this data anymore. We gave it  
12 over to the FBI. Because of the contradictory statements --  
13 and this goes really to Items 1 through 4 of the TRO -- I would  
14 like to believe that they have complied, but all I have are  
15 unsworn contradictory statements.

16 I asked them for an affidavit to confirm what  
17 they were saying in these letters because it contradicted the  
18 preceding statements. I drafted an affidavit for both  
19 Defendants Phillips and Engelbrecht that followed along with  
20 what their lawyer had said in his letter was the truth about  
21 this and why there wasn't an issue on 1 through 4.

22 I was told at the time that they were reviewing  
23 them and that they planned on signing them, and I still haven't  
24 gotten any signed affidavits and I haven't received any  
25 comments to the affidavits. There is no affidavit attached to

14:21 1 their response, so I can't just rely on these unsworn  
2 statements. So part of what we need to ensure that the TRO has  
3 been complied with is some sworn statement on Items 1  
4 through 4.

14:21 5 And frankly, Your Honor, Items 5 through 8 -- I'm  
6 sorry -- 5 through 7, if the defendants had complied with 5  
7 through 7, that's a one-time thing. If they give us that  
8 information, it's moot for purposes of the preliminary  
9 injunction. We don't need it again. But we do need them to  
14:22 10 continue to comply with Items 1 through 4 once they give us 5  
11 through 7.

12 And frankly, I don't see why there should be an  
13 issue complying with 1 through 4, because all it says is that  
14 they won't try to access our protected computers. They won't  
14:22 15 try to take our data, and if they come into possession of it,  
16 they will give it back to us.

17 They don't have a right to do any of those  
18 things, and so the fact that they won't agree to it is  
19 concerning.

14:22 20 THE COURT: All right. Mr. Akers, do you want to  
21 respond to the points made that your client has not complied  
22 with 5 through 7 of the temporary restraining order?

23 MR. AKERS: Yes, Your Honor. And it is a fact that we  
24 have not given up the name of the individual.

14:23 25 THE COURT: Why not?

14 : 23 1 MR. AKERS: Because at the time -- and we now know  
2 there's -- he is part of the investigation.

3 THE COURT: "He" who?

4 MR. AKERS: This particular individual is part of  
14 : 23 5 the --

6 THE COURT: What individual are you talking about?  
7 There are no secrets in this courtroom. I want to know names.  
8 I want to know what you are responding to and I want to know  
9 what evidence you have.

14 : 23 10 MR. AKERS: Okay. May I back up just a little bit and  
11 explain?

12 THE COURT: Sure.

13 MR. AKERS: And this has been explained to plaintiffs.

14 THE COURT: I'm the judge in this case. I want to  
14 : 23 15 know. That's all I'm trying to find out.

16 MR. AKERS: Okay.

17 THE COURT: Thank you.

18 MR. AKERS: So the data in question was retrieved by  
19 an individual who was a contractor, independent. He was not  
14 : 24 20 part of True the Vote. It's not either Gregg Phillips or  
21 Catherine Engelbrecht. That individual came to Gregg Phillips,  
22 in particular, knowing of their interest in election integrity  
23 matters and said, I have come across this information.

24 Mr. Phillips, in turn, saw what he had in Dallas.  
14 : 24 25 They viewed it on their computer, recognized the serious

1 national security concerns and immediately contacted the FBI.  
2 Did not one thing with that data at all on his own, but instead  
3 introduced this individual to the FBI. And the FBI commenced  
4 an investigation.

5 THE COURT: How do you know that?

6 MR. AKERS: Because my clients were told by the FBI  
7 that there was --

8 THE COURT: You have no personal knowledge?

9 MR. AKERS: Not personally, no.

10 THE COURT: Right. And no FBI agent has contacted  
11 you?

12 MR. AKERS: No. No FBI agent has contacted me.

13 THE COURT: No Assistant United States Attorney?  
14 Nobody from the Department of Justice?

15 MR. AKERS: Correct.

16 THE COURT: And this occurred when? How long ago did  
17 this, quote, release to the FBI occur, as best you recall?

18 MR. AKERS: January of '21.

19 THE COURT: So it's been over a year, almost two years  
20 when this information, quote, was provided according to your  
21 client -- and I guess this is Phillips, right?

22 MR. AKERS: Yes.

23 THE COURT: -- provided it to the FBI and there has  
24 been no contact by the FBI to you. And you, I gather, have  
25 been representing him or at some point began representing him

14 : 2 5 1 to indicate that there was any investigation?

2 MR. AKERS: I do not know this individual. I do not  
3 represent this individual.

4 THE COURT: Which individual are you talking about?

14 : 2 6 5 MR. AKERS: The individual who actually has the data  
6 who then turned it over to the FBI.

7 THE COURT: No. But, I mean -- when Phillips claimed  
8 that he turned it over to the FBI, he had to have possession of  
9 it at the time in order to turn it over?

14 : 2 6 10 MR. AKERS: Actually, yes. It was kind of a  
11 combination of the two of them getting together and, Here it  
12 is.

13 THE COURT: Well, I don't know what they did, and I  
14 don't think you know either, but you know Phillips was involved  
15 in the turning over?

16 MR. AKERS: Yes.

17 THE COURT: All right. So here's my question that I'm  
18 trying to get answered, and that is this: What evidence do you  
19 have or what reason do you believe that Mr. Phillips verified  
14 : 2 6 20 that any of this data was coming from China?

21 MR. AKERS: On the basis of what -- what Mr. Phillips  
22 himself saw.

23 THE COURT: What he told you he saw. Have you seen  
24 it?

14 : 2 7 25 MR. AKERS: No.

1 THE COURT: Okay. So this is what Mr. Phillips told  
2 you he saw?

3 MR. AKERS: Yes.

4 THE COURT: And you don't have any verified statement  
5 from Mr. Phillips saying -- or swearing that he has verified  
6 that the person he was in contact with in Dallas was, in fact,  
7 a person he could vouch for?

8 In other words, I can walk out of here and walk  
9 on the street and someone can tell me, Look, I have got this  
10 data, this information. I want you to see it.

11 And so I follow them someplace, and I look at it.  
12 How do I know that the person that I'm following is worthy of  
13 my intention?

14 So you don't have that kind of verification from  
15 Mr. Phillips that the man that he was dealing with is a man who  
16 verified to him that this information had come from China.

17 MR. AKERS: I cannot recite that. I have no  
18 verification.

19 THE COURT: Okay. So Mr. Phillips apparently meets at  
20 the hotel. And why is it that Mr. Phillips -- or is it you  
21 that don't want to release the name of the individual to  
22 plaintiff's counsel?

23 MR. AKERS: It's all of us because we fear for the  
24 safety -- on behalf of my clients, we do not want to release  
25 the name for fear of the safety of this individual.

14:28 1 THE COURT: From who? I mean, he has already been  
2 sued by Konnech. Who else does he need to be protected from?  
3 From the individual that helped him -- that shared the  
4 information with him?

14:28 5 MR. AKERS: From those forces of the Chinese Communist  
6 Party that might be interested.

7 THE COURT: There are no Chinese in here doing  
8 anything. All we are talking about now is data that was not on  
9 a Chinese -- that individual's name that you gave to me was not  
14:29 10 a typical -- or even appeared to be a name of a Chinese  
11 individual. Agreed?

12 MR. AKERS: Correct.

13 THE COURT: Right. So the information came from an  
14 individual who had either hacked into a Chinese computer. Or  
14:29 15 he was lying and he had done the hacking. And he set it up  
16 over in the China computer so he could then retrieve it as  
17 though it was coming from China.

18 We don't know, do we?

19 MR. AKERS: I cannot recite to you how this was  
14:29 20 acquired.

21 THE COURT: Well, I understand that, but I'm trying to  
22 find out where the security issue is. If this is a national  
23 security issue, I'm in it all the way as a federal judge. I  
24 have a need to know and there can't be any secrets. And I'm  
14:29 25 sitting on them, waiting for hell to break loose somewhere out



14:29 1 there and then for them to say, Well, you know, the judge  
2 withheld this information from whatever. I mean, don't you  
3 think that if the FBI -- let me ask it this way: Did  
4 Mr. Phillips tell the FBI that he has been sued by Konnech? Or  
14:30 5 do you know?

6 MR. AKERS: Would you ask that question again?

7 THE COURT: Oh, I'm sorry. Did Mr. Phillips -- or has  
8 Mr. Phillips or Ms. Engelburt -- Engelbrecht -- I'm sorry --  
9 told the FBI that they have been sued about this and that they  
10 need to be -- need to have the backing of the FBI to stand in  
11 the position they are standing in?

12 MR. AKERS: Yes, we have.

13 THE COURT: They have told them that?

14 MR. AKERS: Yes.

15 THE COURT: You did that?

16 MR. AKERS: Yes.

17 THE COURT: And what was the response from the FBI?

18 MR. AKERS: I was told by a different office --

19 THE COURT: What do you mean "different office"? The  
14:30 20 people you reported it to was one place. The response came  
21 from a different place. Is that what you mean?

22 MR. AKERS: Yes.

23 THE COURT: Okay. Go ahead.

24 MR. AKERS: That they were not interested in the  
14:30 25 protection of this information.

14:30 1 THE COURT: Or individual, for that matter. So you  
2 are going to release that name to counsel today.

3 MR. AKERS: Judge, before you order me to do that --

4 THE COURT: I have already ordered you to do it.  
14:31 5 There can be no secrets in this courtroom where it appears as  
6 though the problem associated with this case is the source, and  
7 your client, Mr. Phillips, has not appeared in court, has not  
8 filed an affidavit and apparently -- or Ms. Engelbrecht -- and  
9 apparently refuses to do so, saying that he received this from  
10 a particular individual.

11 All I have is a letter, which is an ex parte  
12 communication from you, giving me a name, which is really -- I  
13 don't have any need for any ex parte communication.

14 By the way, on that matter, gentlemen, neither of  
14:31 15 you, nobody on either side in this case, should ever call my  
16 case manager on the telephone again. Not for any reason. If  
17 you want to know the status of your case, you come down here or  
18 you go online and you figure it out.

19 If you want to communicate with her, you email  
14:32 20 her and copy the other side. That's the way it has to be done.  
21 Otherwise, you are entangling me in your communication. We  
22 don't talk by telephone. This isn't the way lawyers handle  
23 business.

24 I mean, what would have happened 50 years ago had  
14:32 25 that happened? It just didn't happen. No further calls to

14:32 1 this office about any matter. I mean, if you are looking for a  
2 date or an event that's coming up, that's fine. You can get  
3 that from the clerk. Nathan's office will give you that  
4 information, or somebody down there. But don't call my case  
14:32 5 manager about anything because that's my case manager. She is  
6 an arm of the Court and she can't talk to you ex parte unless  
7 both counsel are on the line. And both of you should be on the  
8 telephone calling at the same time. Okay?

9 So, having said that, let me just find out. What  
14:32 10 is it that your client expects you to do with this? What do  
11 they expect me to do with it?

12 MR. AKERS: Judge, this is an extraordinary thing that  
13 I have never asked of a judge ever. Before you further order  
14 me --

14:33 15 THE COURT: Okay.

16 MR. AKERS: I wanted to say it right.

17 THE COURT: Go ahead. That's fine.

18 MR. AKERS: I beg that you call the district attorney  
19 in --

14:33 20 THE COURT: I can't talk to them. They are not in  
21 this case. You know what? They may be obstructing justice by  
22 what they have done. We might find that out.

23 On the verge of this proceeding going to a  
24 hearing, suddenly the plaintiff gets arrested so he can't show  
14:33 25 up in my court, and then there's -- according to the papers,

14:33 1 there is this extradition question going. Apparently, the  
2 judge there decided he wasn't going to hold him like he was a  
3 foreigner. He's an American citizen. And I would hate to  
4 think that just because he has a Chinese name, that that makes  
14:34 5 him less of a citizen than anybody else in this courtroom.

6 MR. AKERS: Of course.

7 THE COURT: So the point is that he was released on a  
8 bond and to show up at a show cause hearing, which I suspect he  
9 will have lawyers to deal with that. But it has interfered  
14:34 10 with the proceedings in this Court on what you and your client  
11 have described as a national security issue. That's  
12 top-of-the-line kind of problem. It's not, Somebody cut my  
13 yard and they won't stop cutting it and I want an injunction.  
14 That's not what this is. This is a very serious issue, either  
14:34 15 because it is true or because it is a made-up, themed  
16 proceeding designed to simply produce some kind of popularity  
17 or publicity stunt. And I want to get to the bottom of it.  
18 That's all.

19 So I want to know, if anything, whether or not  
14:34 20 Mr. Phillips is going to make an affidavit. If he's not, it  
21 really doesn't matter. I'm ordering you right now to give the  
22 name to him. I want him in the lawsuit. Whoever it is, I want  
23 him in the lawsuit. And I want all of them in the lawsuit,  
24 because it's a national security issue.

14:35 25 And if Mr. Yu -- is it Y-U?

14:35 1 MR. PAMPHILIS: Yes, Your Honor.

2 THE COURT: How do you pronounce it?

3 MR. PAMPHILIS: "You."

4 THE COURT: If Mr. Yu is violating federal law, I want  
14:35 5 to know that. If Mr. Phillips and Ms. Engelbrecht is violating  
6 federal law, I want to know that. If this man whose name you  
7 have sent to me is violating federal law and interfering with  
8 international affairs, I want to know that because I do not  
9 want somebody in the United States interfering with Chinese  
14:35 10 business and then laying it off on somebody else as having done  
11 it. It just doesn't make sense to me. There's enough going on  
12 in this world without us helping them. We shouldn't be  
13 throwing gasoline on any of these fires.

14 So I'm ordering you to give it to them. Now, if  
14:36 15 you want to call your client and talk to them about it, feel  
16 free to do that. But you are going to do that before we leave  
17 the courthouse today. All right?

18 You can't give it to me and then want me to do it  
19 for you. You are going to do it. Okay, Counsel?

14:36 20 MR. AKERS: Well, my --

21 THE COURT: All right.

22 MR. AKERS: Judge, I'm not going to argue with you.  
23 It's a -- the concern is over the --

24 THE COURT: I'm concerned about my own safety, and you  
14:36 25 all should be concerned too. According to Mr. Yu, he's the one

14:36 1 that ran away from home with his family to try to protect  
2 himself, and now he has been arrested. That's according to the  
3 pleadings, I gather. Nobody else has had to hide.

4 MR. AKERS: That's not right at all.

14:36 5 THE COURT: Oh, it's not? Tell me about it.

6 MR. AKERS: Both Ms. Engelbrecht and Mr. Phillips have  
7 received death threats.

8 THE COURT: From?

9 MR. AKERS: They are anonymous, of course. She has  
10 drones flying over her house.

11 THE COURT: Well, let me say it like this: If you are  
12 looking at somebody else's business, whether it is shown to you  
13 by some person that you don't want to tell the name of, or  
14 whether it's because you are just nosy -- not you personally --  
15 or in somebody else's business, you should expect that if you  
16 are looking in somebody else's business, somebody is going to  
17 look for you. I mean, if you go break into the courthouse,  
18 into our records here in the court in this federal building,  
19 don't you think somebody in the FBI's office and other people  
14:37 20 are going to be looking to see why you are doing this? That  
21 makes sense. I mean -- so what is your client -- your client  
22 has not, as I understand it -- although ordered, he has not  
23 provided the identity of any individuals or organizations  
24 involved in this case to the plaintiffs?

14:38 25 MR. AKERS: That's true.

14:38 1 THE COURT: And as far as I understand, whatever the  
2 confidentiality disclosed -- let me see. Order to  
3 confidentially disclose to Konnech how, when and by whom  
4 Konnech's protected computers were accessed. That has not been  
14:38 5 stated or that information has not been given?

6 MR. AKERS: It has not.

7 THE COURT: And what I believe I heard you say,  
8 perhaps in papers, was that your client denies that they did  
9 it. That's part of --

14:38 10 MR. AKERS: That's part of it. And there is  
11 additional information that I would like to bring to the  
12 Court's attention that calls into grave question the veracity  
13 of the pleadings to begin with.

14 THE COURT: What pleadings? The plaintiff's  
14:38 15 pleadings?

16 MR. AKERS: The plaintiff's pleadings.

17 THE COURT: How can you bring something to my  
18 attention that is not evidentiary?

19 MR. AKERS: Well, it is evidentiary. We submitted it  
14:38 20 in our response last night.

21 THE COURT: Let me get that response.

22 *(Pause)*

23 THE COURT: I have it here. I just need to put my  
24 hands on it so I can follow you as you are telling me about it.

14:39 25 I believe that was Document Number 24,

14:39 1 defendants' motion to plaintiff's -- defendants' opposition to  
2 plaintiff's motion for preliminary injunction?

3 MR. AKERS: Yes, sir.

4 THE COURT: Go ahead. Where are you pointing to?

14:39 5 MR. AKERS: The most significant matter is that we  
6 have been accused of hacking and getting information that we  
7 were not entitled to get when, two days before this lawsuit was  
8 filed, Konnech issued on their website, and then as a press  
9 release to various press interests, a document that is attached  
10 called "The Truth about Konnech."

11 This very document has since been taken off of  
12 their website, scrubbed, but significantly and importantly --

13 THE COURT: Pages 1 through 3 is what is attached?

14 MR. AKERS: Yes, sir.

14:40 15 THE COURT: Okay.

16 MR. AKERS: The accusation -- if you look at the  
17 bottom portion of page 1 --

18 THE COURT: I'm looking.

19 MR. AKERS: "True the Vote claims to have downloaded  
14:40 20 personal data on 1.8 million poll workers early in 2021 from an  
21 unsecured Konnech server in Wuhan, China."

22 "Truth: Konnech thoroughly investigated True the  
23 Vote's claims and found no evidence whatsoever of any breach of  
24 our systems or Konnech data anywhere in the world."

14:40 25 We were accused of hacking. Two days before this



1 lawsuit was filed, they are saying they were not hacked.  
2 Nothing happened in those two days.

3 THE COURT: I don't know that that's what that says.  
4 In the face of your client's own admission, I don't know that  
5 that is what is being said. I don't need to decide that issue  
6 though.

7 MR. AKERS: We don't have admissions from my client  
8 that says that they have improperly gotten into their  
9 computers.

10 THE COURT: You know, if I walked out on the street  
11 and some guy says, I have got three brand new suits in the  
12 trunk of my car. I will let you have them for \$100 apiece.  
13 And I walk over and I look at them. And I said, Tell you what,  
14 I will give you \$75 apiece for them. He says, Fine. I give  
15 him the money. Walk away with the three suits.

16 Am I a thief or not? What does the law say about  
17 me buying stolen goods?

18 MR. AKERS: As it relates to computer data, the U.S.  
19 Supreme Court has issued a case in 2021 called Van Buren versus  
20 the United States which dramatically narrows what would be  
21 considered hacking.

22 THE COURT: I didn't say anything about hacking. I'm  
23 giving you an example of having access and taking data that  
24 someone else has taken or come into and saying, Well, I didn't  
25 do it. That's what the guy says: I didn't steal anything. I

1 just got these from the guy down the street who gave them to me  
2 and I'm selling them.

3 And what I'm asking you is: Does it make sense  
4 for me and my defense to be, I didn't hack into your computer  
5 but I got the data anyway?

6 MR. AKERS: Well, we are talking about where the Ninth  
7 Circuit has said that getting access to data that is otherwise  
8 publicly available, that that cannot be theft per se.

9 THE COURT: But it ain't publicly available yet,  
10 apparently.

11 MR. AKERS: It was not acquired -- Judge --

12 THE COURT: Somebody has got to swear, and you can't  
13 do it.

14 MR. AKERS: No.

15 THE COURT: It's not public data if someone takes me  
16 into a room and says, Don't tell anybody where you got this  
17 from. I want to show you something.

18 That's not public data. That's not the public  
19 domain, and the fact that a person who steals something, puts  
20 it on the public domain, doesn't necessarily mean that other  
21 people who come along and grab it are not going to be liable in  
22 some respect. They might not have hacked it. They might not  
23 have stolen it, but they have access to it. And there is some  
24 liability as it relates to the person who did the hacking,  
25 theoretically.

14 : 43 1 So all I asked was whether or not your client --  
2 you are reading that as saying that your client has to hack  
3 into something, and that's not what it is that the order  
4 ordered. The order orders the disclosure of the persons from  
14 : 44 5 whom this data was received, when and where and who it was.  
6 That's what this -- your client can say, I have no idea who  
7 they are. I never had access to anything. Or, I know who they  
8 are, and I won't tell you, whatever that circumstance might be.

9 So there has been no turning over at this point,  
10 as I understand it?  
14 : 44

11 MR. AKERS: Right. And we believe, Your Honor, that  
12 this ex parte order of yours was issued on the basis of this  
13 false information and ought to be revisited.

14 THE COURT: Well, I can't revisit it because I don't  
15 have any evidence to the contrary. The way I can modify  
16 anything is to have the opposite come in here and swear under  
17 the pains and penalties of perjury of giving false testimony,  
18 that it ain't so, Ken. It ain't so.

19 So I understand that, that the answer is no, he  
14 : 45 20 has not. And I gather that would also apply to Number 7. The  
21 Court ordered the identity of all persons and entities in  
22 defendants' knowledge who have had possession, custody or  
23 control.

24 We don't even know the FBI agent's name, do we?

14 : 45 25 MR. AKERS: What?

1 THE COURT: We don't know the FBI agent's name that  
2 your client turned this data over to?

3 MR. AKERS: I don't know the name, but they do.

4 THE COURT: That's the name that we want. That's the  
5 name that they have asked for. They want to know who the FBI  
6 agent is. None of us are above the law. We all have to  
7 comply, and you can't turn something over to a federal agency  
8 and say, I'm not going to tell you who I talked to, especially  
9 when the allegation is that you have it, or had it, and either  
10 you disposed of it or you destroyed your computers. You have  
11 done whatever you need to do to hide your position. But based  
12 on what I'm hearing here, Mr. Phillips is still making  
13 representations in the public domain about what he saw and  
14 whatever it is that he had, or has. There's nothing to  
15 indicate that he doesn't have that data right now on his own  
16 hard drive.

17 MR. BREWER: Your Honor?

18 THE COURT: Yes, sir? I'm sorry. What's your name?

19 MR. BREWER: Mark Brewer.

20 Your Honor, if I can just answer that last  
21 question, the problem is that if you look at the complaint and  
22 you look at the TRO --

23 THE COURT: I'm not going to argue the complaint or  
24 the TRO. I want to know whether or not there has been  
25 compliance, and I want to know from your client whether or not

14:46 1 there's anything that's in the complaint that's in error. And  
2 I can't take that from you. I mean, you meaning the lawyers.

3 MR. BREWER: I'm just trying to answer your question.  
4 And the answer is that my clients -- our clients do not have  
14:47 5 the data so they don't have anything --

6 THE COURT: How do you know?

7 MR. BREWER: Because, first of all, the allegation --

8 THE COURT: How do you know they don't have the data?

9 MR. BREWER: We don't even know what data we are  
14:47 10 talking about. That's the point.

11 *(Simultaneous crosstalk)*

12 THE COURT: I'm sorry. One at a time.

13 How do you know your client doesn't have the data  
14 that they are now saying that Konnech has sent to, quote,  
14:47 15 China?

16 MR. BREWER: Because Konnech said so. Konnech said  
17 that nobody got their data.

18 THE COURT: No. That's not the point.

19 MR. BREWER: Well, how --

14:47 20 THE COURT: Because your client showed up in a hotel  
21 room and said he saw it, didn't he? That's in your pleadings.

22 MR. BREWER: Your Honor, seeing it and possessing it  
23 are two different things.

24 THE COURT: Well, it may not be and it may be.

14:47 25 MR. BREWER: It is interesting to point out that this

14 : 47 1 data we're talking about, nowhere is it said to be Konnech.  
2 They are only allegations.

3 THE COURT: Let me ask you this: How could your  
4 client turn anything over to the FBI that he and she did not  
14 : 48 5 have? And I'm not asking you to answer that. I'm posing that  
6 as a question. Where your client is going to claim that  
7 something has been turned over to the FBI and said, I don't  
8 have it, is it because he turned it over to the FBI? Then who  
9 in the FBI has it? I need to know, and I need to know whether  
14 : 48 10 or not it is this national security issue. I need to know  
11 whether or not the Department of Justice is involved in this in  
12 some way. They have got thousands of lawyers all over this  
13 country. Surely somebody could have contacted the Court by  
14 now.

14 : 48 15 So I don't think the answer is, Well, there is  
16 something wrong with their pleadings. I think the answer is,  
17 We are not having a hearing because his client has been  
18 arrested by people who are intent on flipping the script. He  
19 has rights to the documentation. That's undisputed. He has  
14 : 49 20 rights to the data that he had. And the allegation that the  
21 data was somehow sent to China, that's not in his pleadings.  
22 His pleadings are, We sent different data. So there is no  
23 allegation in his pleading that he sent the data that he  
24 received from clerks and county officials or whoever in the  
14 : 49 25 United States.

14:49 1 The pleadings had to do with sending some  
2 different kind of data or something made up to test, or  
3 whatever. Whatever the circumstances are, certainly we can  
4 find out.

14:49 5 But for your client to say, I turned it over to  
6 the FBI, we need to know what was turned over. Surely the FBI  
7 would want to know his source.

8 MR. BREWER: Your Honor, could I offer into evidence,  
9 please, the attachments to our response yesterday?

14:50 10 THE COURT: Not as evidence.

11 MR. BREWER: Excuse me?

12 THE COURT: Not as evidence.

13 MR. BREWER: I would offer, Your Honor, as an  
14 admission against interest in the hearsay rule, it's the  
15 defendants' -- plaintiff's own statement. The plaintiff's own  
16 statement said their computers were never hacked. They did a  
17 thorough investigation. There was no hacking, and their  
18 affidavit says the same thing. Mr. Yu's affidavit says the  
19 same thing. So the whole premise on which the suit and the TRO  
14:50 20 were brought doesn't stand.

21 According to the statute, you can't have a  
22 hacking by saying, I claimed to have the data. That does not  
23 constitute a breach of the computer, and the plaintiff says --

14:50 24 THE COURT: But your client is all over the Internet  
25 talking about what he has seen and what it is that Konnech has.

14:50 1 MR. BREWER: And none of it says Konnech. None of it  
2 is Konnech's information.

3 THE COURT: It says that it was secured inferentially  
4 from Konnech, as I understand it, and it says that this came  
14:51 5 off -- well, where would they get the data from? Why don't  
6 they just come in and say, Somebody stole the data from  
7 somebody else, not Konnech? I mean, that would be easy, and I  
8 would dismiss Konnech's suit. I would be able to dismiss this  
9 suit because his suit is about data that he had on his hard  
14:51 10 drive that he secured from Harris County, Texas, from  
11 Los Angeles County, from Michigan somewhere County, whatever  
12 those counties are. And he got it under circumstances that  
13 require him to secure it.

14 When and if that data by, let's say, Phillips is  
14:51 15 being released or put into the space, airways, wherever -- when  
16 it is put out there in the Internet, it's coming from  
17 somewhere. Whether they hacked into Harris County, "they"  
18 meaning whoever those folk are, or they hacked into Los Angeles  
19 County, whether they did that or not, that's fine. That Harris  
14:52 20 County and Los Angeles's problem.

21 MR. BREWER: The problem, Your Honor, is that none of  
22 us really know what we are talking about. His client said they  
23 don't even have computers in China. The district attorney's  
24 own press release of Tuesday says, We found as part of our  
14:52 25 investigation that they are maintaining their servers --



14:52 1 THE COURT: I don't want to hear -- listen, I really  
2 don't care what the district attorney is saying. That's not my  
3 case. They will win it or lose it based on their evidence.

4 MR. BREWER: And they don't have any evidence. That's  
14:52 5 what I'm saying, Your Honor.

6 THE COURT: Then they shouldn't have arrested him.

7 MR. BREWER: I'm saying the plaintiff doesn't have any  
8 evidence.

9 THE COURT: If the plaintiff doesn't have any  
14:52 10 evidence, then they shouldn't have arrested him.

11 MR. BREWER: Then they should not have?

12 *(Simultaneous crosstalk)*

13 THE COURT: But apparently your client has something  
14 that was turned over to them, and it's on that basis, in part,  
14:52 15 that he was arrested. Somebody turned something over to the  
16 district attorney in Los Angeles, true or false, and on that  
17 basis, Los Angeles decides to arrest him.

18 MR. BREWER: My understanding was it was a grand jury  
19 indictment. That's what the press release says.

14:53 20 THE COURT: Well, you know, somebody had to go before  
21 the grand jury, didn't they? The DA or some witnesses had to  
22 go before the grand jury and convince them that a crime had  
23 been committed by the plaintiff. And in order for them to do  
24 that, they would have to have secured that information from  
14:53 25 someone else.

14:53 1 MR. BREWER: Sure.

2 THE COURT: That's all I'm saying.

3 I have a couple more questions. The question is:  
4 Do you oppose -- are you opposing the plaintiff's request that  
14:53 5 the Court consider the documents and evidence on file and  
6 proceed to preliminary injunction?

7 MR. BREWER: Yes, we are, Your Honor.

8 THE COURT: I thought I got word that you wanted me to  
9 go ahead and proceed. Didn't you send a letter -- no. Didn't  
14:53 10 you send a letter, Counsel, indicating that you wanted the  
11 Court to proceed on the documents?

12 MR. AKERS: No.

13 THE COURT: You did not?

14 You did not either?

14:54 15 MR. BREWER: No, sir. We asked the Court to vacate  
16 the TRO. That's in our response yesterday.

17 THE COURT: Well, I'm talking about all this ex parte  
18 communication. We have gotten letters from you all, haven't  
19 we? Was that your letter?

14:54 20 MR. BREWER: But they don't say that.

21 THE COURT: Was that your letter saying that you want  
22 the Court to proceed?

23 MR. BREWER: No, Your Honor.

24 To be fair, I don't think either side said that,  
14:54 25 Your Honor.

14:54 1 THE COURT: Maybe I misread it. I apologize.  
2 Apparently, I misread the letter or the communication.

3 There was a motion for show cause having to do  
4 with the motion for contempt. How am I to proceed on that?  
14:54 5 Your clients are going to have to be here.

6 MR. BREWER: Okay.

7 THE COURT: So I can enter an order ordering them to  
8 be here. We can have a hearing and decide at that point  
9 whether or not -- maybe plaintiff has got this all wrong.

14:55 10 MR. BREWER: Your Honor, respectfully, we don't need a  
11 show cause order. If you want to set a hearing, an evidentiary  
12 hearing --

13 THE COURT: They need a show cause hearing. I need a  
14 show cause hearing. When they made allegations that someone  
14:55 15 has violated my order, it is incumbent upon the Court to move  
16 to bring the parties together to figure out if there's merit to  
17 what the claim is, what the motion is.

18 MR. BREWER: Just to be clear, Your Honor, at no time  
19 were we ever asked to bring any witnesses today. I just wanted  
14:55 20 you to know, we are not -- we would have brought them, but we  
21 didn't know that that was even an issue. We thought we were  
22 here on the TRO.

23 THE COURT: Why didn't you bring your clients and  
24 disprove their case then? They would have been able to get on  
14:55 25 the witness stand and say, It ain't so, Judge. It ain't so.

14:55 1 MR. BREWER: Well, I guess because, Your Honor, it's  
2 not our burden, and they said to the Court in the letter you  
3 referred to that they don't have witnesses and wanted to pass  
4 the hearing.

14:56 5 So we understood this would not be an evidentiary  
6 hearing, and we understood that the purpose of this hearing  
7 would be the vacatur of the TRO because it's expired as a  
8 matter of time. The extension granted -- extended it until  
9 either you had this hearing or the parties agree. We agreed to  
10 everything except turning over the name. That wasn't good  
11 enough, so we didn't have an agreement, and so that's why we  
12 are here today.

13 MR. PAMPHILIS: Your Honor, he has misstated what the  
14 agreement on the extension of the TRO is. Explicitly what it  
15 is -- and I know he wasn't involved and may not be as familiar  
16 with it as Mr. Akers -- it was either the parties agree to a  
17 preliminary injunction and it's signed -- it's submitted and  
18 signed by the Court, or the Court rules on the motion for  
19 preliminary injunction, not just has a hearing on it. But, in  
20 other words, the TRO stays in effect. And the fact that they  
21 filed --

22 MR. BREWER: I won't argue with that.

23 MR. PAMPHILIS: The fact that they filed this response  
24 last night with a motion -- it's not titled a motion to  
25 dissolve the TRO. There are like a few words in there that

1 state that. I think that has been waived. They agreed to  
2 extend this based on that agreement or proceeding.

3 If you look at Rule 65, you'll see if you want to  
4 dissolve a TRO -- and I don't think they still can -- you have  
5 to give at least two days' notice. So I don't know why they  
6 thought they could do that here today without giving us any  
7 notice that they intended to do it.

8 I will say, if I could briefly respond to the  
9 Truth about Konnech document, Your Honor, because I think it's  
10 important. They keep saying that somehow we hid something from  
11 the Court when we came down to get the TRO, and that is not  
12 true. And I do take great offense to that. Obviously, they  
13 weren't here to hear it, but our affidavit is clear. Right?  
14 We specifically cited as a basis for the TRO the defendants'  
15 statements. We attached those actual statements. The Court  
16 had the transcripts of those statements on which to base the  
17 TRO.

18 At no point did Mr. Yu proclaim that he knew that  
19 they actually took it, and the fact that they -- the point of  
20 the Truth about Konnech document, if you look at the first  
21 paragraph of that document, you will see there is a reference  
22 to these defendants. They are the ones who sparked this  
23 document because they were out there spewing all of this  
24 misinformation about my client. Customers were getting  
25 concerned, and the client, Konnech, wanted a place where its

14:58 1 customers could go and get answers to the questions they might  
2 have.

3 And so, on their main argument, which is that the  
4 Truth about Konnech document says we looked into it and we  
14:58 5 can't find a data breach. That doesn't mean that it didn't  
6 happen. It doesn't mean that if I left my key in the front  
7 door and some careful criminal comes along, opens the door,  
8 goes inside, takes picture of things, but doesn't take anything  
9 that I can tell is missing, that there wasn't breaking and  
10 entering.

11 The fact that the person who was victimized can't  
12 prove from his own he wasn't an eyewitness to it doesn't mean  
13 that it didn't happen. They have proven it with their own  
14 words. They have proven it in their response to the motion for  
14:59 15 preliminary injunction. I think the Court has all the evidence  
16 it needs to grant that motion.

17 THE COURT: All right. I will consider that.

18 Anything else from you or from the defense?

19 MR. PAMPHILIS: Your Honor, I would just ask, given  
14:59 20 Your Honor's orders, that they disclose the information to us  
21 in paragraph 5 in particular; that that be done on the record  
22 here before we leave this courtroom.

23 THE COURT: Paragraph 5 has to do with -- you are  
24 talking about the name, the one name? Is that correct?

14:59 25 MR. PAMPHILIS: Yes, Your Honor.

14:59 1 THE COURT: Oh, okay. All right. I have ordered them  
2 to do that, and I indicated that's to be done before we leave  
3 the courtroom.

4 MR. AKERS: May I ask the Court that we do that under  
15:00 5 a protective order such that --

6 THE COURT: I don't know what I'm protecting and who  
7 I'm protecting.

8 MR. AKERS: The identity of this person who --

9 THE COURT: Well, why should that person be protected  
15:00 10 if your client is claiming that he is the one from whom he  
11 received this data?

12 MR. AKERS: Because we fear for his safety.

13 THE COURT: Why wouldn't he come in here and tell me  
14 that? It's easier said.

15:00 15 MR. PAMPHILIS: Your Honor, we object to a protective  
16 order.

17 THE COURT: I'm not going to enter a protective order  
18 to protect anybody. This is a matter of serious concern. Let  
19 me tell you why. First of all, if anybody has a million or  
15:00 20 200,000 individual names, their home addresses, telephone  
21 numbers, Social Security numbers, I can read -- I will see that  
22 in the newspaper at some point because that data can be sold.  
23 And the next thing you know, every one of these person's credit  
24 has been wrecked at the very least. It would be wrecked  
15:01 25 because there would be credit cards all over the place in

15:01 1 people's names. Their credit would be ruined, and there would  
2 be a reason why some people should be afraid for their safety  
3 and security. And I'm not concerned about this man's safety or  
4 security. So I'm not going to do it. You are going to do it  
15:01 5 because you had no right to submit this to me under seal.

6 There is no affidavit or information giving me  
7 anything that says that this man is worthy of protection or  
8 that Mr. Phillips or Ms. Engelbrecht is worthy of any  
9 protection or should be concerned about anything.

15:02 10 After all, the plaintiff is in jail, or maybe  
11 he's out now. I don't know. If he's afraid of his source,  
12 then that's something that he has to deal with because, I mean,  
13 you have to consider the company you keep.

14 All right. Are you going to give it to him now?  
15 Or are you going to give it to him now?

16 MR. AKERS: May I have a minute to call my client? I  
17 intend to comply with the Court's order, but I prefer to tell  
18 him.

19 THE COURT: You can't leave the courtroom. Certainly,  
15:02 20 you can step off to the side and call your client, but you  
21 can't leave the courtroom. I don't want to play the game that  
22 seems to be in play here. I'm on the sideline. I'm calling  
23 plays, not in the game.

24 MR. AKERS: Judge, among my fears, as a guy who has  
15:03 25 been in the Bar for a few years, is that you would think that I



15:03 1 am trying to play a game.

2 THE COURT: Not you. I'm thinking you may be played.

3 MR. AKERS: I think I'm am a better judge of character  
4 than that.

15:03 5 THE COURT: You would have thought that of the  
6 President or a lot of lawyers who have been disbarred or who  
7 are being now sanctioned. I have no reason to believe those  
8 weren't good lawyers, but they were played.

9 MR. AKERS: For what it's worth, I'm confident that I  
15:03 10 have not been played and that the work that they have done is  
11 worthy.

12 THE COURT: The work that who has done?

13 MR. AKERS: The work that my client True the Vote in  
14 order to accomplish election integrity overall --

15:04 15 THE COURT: I don't really have any confidence in any  
16 of these folk who claim they are doing that. We did pretty  
17 good until about three or four years ago, five or six years  
18 ago. The only people that I know of who have done something  
19 wrong are people who have been either caught or who have been  
15:04 20 charged and mistreated.

21 Do errors get made? Yeah. Do people cheat?  
22 Perhaps. But all of this fuss and hustle and bustle about the  
23 integrity of a process and the way you fix that process is you  
24 tear it apart? That's not integrity. That's destruction.

15:04 25 So I want it done now. You can get on the phone

15:04 1 and call him, and I'm going to sit right here until I know it's  
2 done.

3 MR. AKERS: I have the name.

4 THE COURT: I'm sorry?

15:05 5 MR. AKERS: I said I have the name.

6 THE COURT: Well, then deliver it.

7 MR. AKERS: I need to look it up.

8 THE COURT: And if there are any other names --

9 *(Simultaneous crosstalk)*

15:05 10 THE COURT: Let me just finish. If there are any  
11 other names associated with this Dallas group, those names are  
12 to be turned over. And I understand that I'm hearing you say  
13 there is only one name that you have.

14 *(Mr. Akers hands Mr. Pamphilis a piece of paper)*

15:06 15 MR. AKERS: For the record, I just handed him the  
16 name.

17 THE COURT: All right.

18 MR. PAMPHILIS: Your Honor, I would prefer that the  
19 name be read by him into the record so that there is no dispute  
15:06 20 about the name that I was given.

21 THE COURT: I don't think I have my copy here.

22 MR. AKERS: I have mine electronically.

23 THE COURT: Say what?

24 MR. AKERS: I have a copy of my letter electronically.

15:06 25 THE COURT: You need to read it for the record then.

15:06

1 Is that the name?

2 Read it for the record so the record is clear.

3 MR. AKERS: His name is Mike Hasson.

4 THE COURT: Is that the name you have?

15:07

5 MR. PAMPHILIS: Is it Hasson or Casson?

6 *(Mr. Akers nods his head)*

7 MR. PAMPHILIS: Yeah. Hasson.

8 THE COURT: Anything else, gentlemen?

9 MR. PAMPHILIS: Your Honor, we had also asked for the

15:07

10 information that supports 6 and 7 of the TRO.

11 THE COURT: And I think that's a part of your motion,  
12 and so what you will need to do is prepare an order indicating  
13 that these matters have not been delivered and, accordingly,  
14 you are seeking -- I think you did that in the form of a  
15 motion. Did you not?

15:07

16 MR. PAMPHILIS: Yes, Your Honor.

17 THE COURT: And that's your show cause request, right?

18 MR. PAMPHILIS: Yes, Your Honor.

19 THE COURT: So when do you think your client is going

15:07

20 to be available? I don't know that he would need to be  
21 available, but the point is that I can enter an order on that,  
22 and I will, to show cause why these matters have not been  
23 complied with. And the question is whether or not you want me  
24 to proceed forward on the preliminary injunction or do you want  
25 to hold off on it?

15:08

15:08 1 MR. PAMPHILIS: I would be happy to proceed forward on  
2 the preliminary injunction.

3 THE COURT: On the papers?

4 MR. PAMPHILIS: Yes, Your Honor.

15:08 5 THE COURT: On the papers themselves?

6 MR. PAMPHILIS: And if he wants to do it on the  
7 papers, we would just ask --

8 THE COURT: No. I'm asking you, because it's your  
9 motion.

15:08 10 MR. PAMPHILIS: I would like to proceed. I would like  
11 the opportunity to reply to what we got last night, if it would  
12 be helpful to the Court, because we just got it, you know, less  
13 than 24 hours before the hearing. And if you are going to rule  
14 on the papers, I think it would be nice for you to have the  
15 complete record so that we respond --

16 THE COURT: I am not choosing to do either. I'm  
17 telling you as counsel for the plaintiff, it's your choice. I  
18 don't decide which way I should go. I decide whether or not --  
19 I simply accept your determination, let's say.

15:09 20 MR. PAMPHILIS: I understand. I'm sorry for the  
21 confusion. We would like to proceed on the papers.

22 THE COURT: Okay. That's what I wanted to know. So I  
23 will get you a response. And I should get that when?

24 MR. PAMPHILIS: Would Tuesday be acceptable, Your  
15:09 25 Honor?

15:09

1 THE COURT: It's up to you.

2 MR. PAMPHILIS: Tuesday would give us enough time --

15:09

3 THE COURT: I think Monday is a holiday anyway so we  
4 would -- it doesn't prevent you from filing documents, but  
5 Monday is a holiday, so Tuesday, or whatever day is  
6 appropriate, that's fine.

7 MR. PAMPHILIS: We will have it by Tuesday to you,  
8 Your Honor.

9 THE COURT: All right. Anything else, gentlemen?

15:09

10 MR. AKERS: No, sir.

11 MR. PAMPHILIS: No, Your Honor.

12 MR. BREWER: Your Honor?

13 THE COURT: Yes, sir?

15:09

14 MR. BREWER: Could we have an opportunity to respond  
15 to any additional evidence that they are going to put in?

16 THE COURT: I don't expect them to be putting evidence  
17 in, but they might. I don't know if they will have a sworn  
18 statement or whether they are simply going to respond to you.  
19 If it is not a sworn statement, I'm not going to be taking a  
20 reply. I'm not going to be waiting on a reply. That doesn't  
21 mean you can't file it. It just simply means that I will not  
22 be giving you a date by which you are to reply.

15:10

23 MR. PAMPHILIS: I can represent we are not putting a  
24 sworn statement in with our reply. I fully appreciate that's  
25 not how replies are done. I'm going to respond to what they

15:10

15:10 1 submitted.

2 THE COURT: All right. I will not stand in the way of  
3 lawyers filing responses or replies. He's filing a response.  
4 You would be filing a reply to the response, and I'm saying  
15:10 5 that I will not delay considering this matter waiting on a  
6 reply. If you want to file it, that's fine.

7 MR. AKERS: Understood.

8 THE COURT: Thank you, gentlemen.

9 MR. PAMPILIS: Thank you, Your Honor.

10 *(Court adjourned at 3:10 PM)*

11 \* \* \* \*

12 I certify that the foregoing is a correct transcript from  
13 the record of proceedings in the above-entitled cause.

14  
15 Date: October 8, 2022

16 */s/ Mayra Malone*

17 -----  
18 Mayra Malone, CSR, RMR, CRR  
19 Official Court Reporter  
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<b>MR. AKERS: [82]</b> <b>MR. BREWER: [30]</b> 36/17 36/19 37/3 37/7 37/9 37/16 37/19 37/22 37/25 39/8 39/11 39/13 40/1 40/21 41/4 41/7 41/11 41/18 42/1 42/7 42/15 42/20 42/23 43/6 43/10 43/18 44/1 44/22 53/12 53/14	<b>above [2]</b> 36/6 54/13 <b>above-entitled [1]</b> 54/13 <b>Absolutely [1]</b> 13/18 <b>accept [1]</b> 52/19 <b>acceptable [1]</b> 52/24 <b>access [9]</b> 11/21 16/23 17/5 17/6 19/14 33/23 34/7 34/23 35/7 <b>accessed [4]</b> 16/16 17/14 17/21 31/4 <b>accessing [2]</b> 10/5 10/20 <b>accidentally [1]</b> 17/8 <b>accomplish [1]</b> 49/14 <b>according [5]</b> 21/20 27/25 29/25 30/2 39/21 <b>accordingly [1]</b> 51/13 <b>account [1]</b> 7/8 <b>accusation [1]</b> 32/16 <b>accused [2]</b> 32/6 32/25 <b>acquired [2]</b> 24/20 34/11 <b>across [1]</b> 20/23 <b>act [1]</b> 17/4 <b>actual [1]</b> 45/15 <b>actually [3]</b> 22/5 22/10 45/19 <b>add [1]</b> 10/23 <b>additional [2]</b> 31/11 53/15 <b>address [1]</b> 6/2 <b>addressed [1]</b> 17/17 <b>addresses [2]</b> 6/16 47/20 <b>adjourned [1]</b> 54/10 <b>admission [2]</b> 33/4 39/14 <b>admissions [1]</b> 33/7 <b>admitted [2]</b> 8/16 15/1 <b>admitting [1]</b> 17/4 <b>advise [1]</b> 5/22 <b>affairs [1]</b> 29/8 <b>affidavit [12]</b> 6/12 10/3 10/12 18/16 18/18 18/25 26/8 28/20 39/18 39/18 45/13 48/6 <b>affidavits [3]</b> 15/7 18/24 18/25 <b>afraid [2]</b> 48/2 48/11 <b>after [4]</b> 4/25 18/2 18/3 48/10 <b>After he [1]</b> 18/3 <b>afternoon [1]</b> 3/18 <b>again [6]</b> 3/10 3/11 12/23 19/9 25/6 26/16 <b>against [1]</b> 39/14 <b>agency [1]</b> 36/7 <b>agent [3]</b> 21/10 21/12 36/6 <b>agent's [2]</b> 35/24 36/1 <b>ago [9]</b> 4/23 5/17 5/21 11/9 15/23 21/16 26/24 49/17 49/18 <b>agree [3]</b> 19/18 44/9 44/16 <b>agreed [7]</b> 5/8 5/9 5/11 13/23 24/11 44/9 45/1 <b>agreement [5]</b> 4/12 5/9 44/11 44/14 45/2 <b>ahead [7]</b> 4/19 5/20 14/7 25/23 27/17 32/4 42/9 <b>aided [1]</b> 2/10 <b>ain't [5]</b> 34/9 35/18 35/18 43/25 43/25 <b>airways [1]</b> 40/15 <b>Akers [9]</b> 1/22 1/23 3/19 4/14 16/2 19/20 44/16 50/14 51/6	<b>allegation [5]</b> 8/23 36/9 37/7 38/20 38/23 <b>allegations [2]</b> 38/2 43/14 <b>Allen [1]</b> 1/23 <b>almost [1]</b> 21/19 <b>along [4]</b> 17/10 18/19 34/21 46/7 <b>already [2]</b> 24/1 26/4 <b>also [5]</b> 3/22 9/1 13/8 35/20 51/9 <b>although [1]</b> 30/22 <b>am [5]</b> 33/16 43/4 49/1 49/3 52/16 <b>American [1]</b> 28/3 <b>among [2]</b> 11/8 48/24 <b>analysts [2]</b> 14/17 15/25 <b>Anatole [1]</b> 14/18 <b>Angeles [4]</b> 40/11 40/18 41/16 41/17 <b>Angeles's [1]</b> 40/20 <b>anonymous [1]</b> 30/9 <b>answer [7]</b> 35/19 36/20 37/3 37/4 38/5 38/15 38/16 <b>answered [1]</b> 22/18 <b>answers [1]</b> 46/1 <b>anti [1]</b> 17/4 <b>anti-hacking [1]</b> 17/4 <b>any [29]</b> 7/11 11/13 15/7 18/24 18/24 19/17 22/1 22/20 23/4 24/24 26/13 26/13 26/16 27/1 29/13 30/23 32/23 35/15 41/4 41/7 41/9 43/19 45/6 48/8 49/15 49/15 50/8 50/10 53/15 <b>anybody [5]</b> 7/12 28/5 34/16 47/18 47/19 <b>anymore [1]</b> 18/11 <b>anything [19]</b> 6/16 7/19 8/14 24/8 27/5 28/19 33/22 33/25 35/7 35/16 37/1 37/5 38/4 46/8 46/18 48/7 48/9 51/8 53/9 <b>anyway [2]</b> 34/5 53/3 <b>anywhere [1]</b> 32/24 <b>apart [1]</b> 49/24 <b>apiece [2]</b> 33/12 33/14 <b>apologize [1]</b> 43/1 <b>apparently [7]</b> 23/19 26/8 26/9 28/1 34/10 41/13 43/2 <b>APPEARANCES [2]</b> 1/14 2/1 <b>appeared [2]</b> 24/10 26/7 <b>appears [3]</b> 5/13 7/20 26/5 <b>apply [1]</b> 35/20 <b>appreciate [1]</b> 53/24 <b>appropriate [1]</b> 53/6 <b>are [84]</b> <b>argue [3]</b> 29/22 36/23 44/22 <b>argument [3]</b> 10/16 10/23 46/3 <b>arm [1]</b> 27/6 <b>arrest [4]</b> 8/14 11/15 12/16 41/17 <b>arrested [12]</b> 6/4 6/21 7/20 9/2 12/11 12/12 27/24 30/2 38/18 41/6 41/10 41/15 <b>as [45]</b> 4/8 5/9 6/5 6/12 6/21 8/21 9/12 9/23 11/4 11/23 12/8 13/21 16/15 16/17 17/8 18/2 18/5 18/5 21/17 24/16
<b>MR. PAMPHILIS: [61]</b> <b>THE COURT: [169]</b>		
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**attorney** [5] 10/16 21/13 27/18 41/2 41/16  
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**B**

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**basis** [5] 22/21 35/12 41/14 41/17 45/14  
**became** [2] 15/9 16/15  
**because** [42] 5/2 6/5 7/21 13/1 14/17 15/10 15/11 16/16 16/22 17/5 18/1 18/12 18/17 19/13 20/1 21/6 23/23 27/5 28/4 28/15 28/15 28/24 29/8 30/14 35/14 37/7 37/16 37/20 38/8 38/17 40/9 44/1 44/7 45/9 45/23 47/12 47/22 47/25 48/5 48/12 52/8 52/12  
**been** [37] 5/24 6/1 7/5 7/24 8/2 11/12 13/20 17/14 17/19 19/3 20/13 21/19 21/24 21/25 24/1 25/4 25/9 30/2 31/4 31/5 32/6 32/11 35/9 36/24 38/7 38/17 41/23 43/24 45/1 47/24 48/25 49/6 49/10 49/19 49/19 51/13 51/22  
**before** [14] 1/11 4/18 9/25 10/11 26/3 27/13 29/16 32/7 32/25 41/20 41/22 46/22 47/2 52/13  
**beg** [1] 27/18  
**began** [1] 21/25  
**begin** [1] 31/13  
**behalf** [3] 3/6 3/8 23/24  
**being** [6] 8/19 15/24 16/13 33/5 40/15 49/7  
**believe** [13] 4/12 7/24 8/6 8/9 8/14 10/24 13/4 18/14 22/19 31/7 31/25 35/11 49/7

**benefit** [1] 10/25  
**BENSON** [2] 1/18 3/8  
**best** [2] 6/5 21/17  
**better** [1] 49/3  
**bit** [2] 9/20 20/10  
**bond** [2] 14/21 28/8  
**both** [4] 18/18 27/7 27/7 30/6  
**bottom** [2] 28/17 32/17  
**brand** [1] 33/11  
**breach** [4] 7/21 32/23 39/23 46/5  
**breached** [1] 7/16  
**break** [2] 24/25 30/17  
**breaking** [2] 17/11 46/9  
**Brewer** [3] 1/22 3/19 36/19  
**briefly** [3] 6/2 11/9 45/8  
**bring** [7] 4/6 7/13 31/11 31/17 43/16 43/19 43/23  
**Brock** [2] 1/22 3/18  
**brought** [2] 39/20 43/20  
**building** [1] 30/18  
**burden** [1] 44/2  
**Buren** [1] 33/19  
**business** [8] 6/19 12/20 12/21 26/23 29/10 30/12 30/15 30/16  
**bustle** [1] 49/22  
**buying** [1] 33/17

**C**

**call** [7] 26/15 27/4 27/18 29/15 48/16 48/20 50/1  
**called** [3] 7/23 32/10 33/19  
**calling** [2] 27/8 48/22  
**calls** [2] 26/25 31/12  
**came** [7] 17/10 17/10 20/21 24/13 25/20 40/4 45/11  
**can** [28] 4/7 4/20 6/5 9/22 10/21 11/21 13/12 17/1 23/8 23/9 26/5 27/2 31/17 31/24 35/6 35/15 36/20 39/3 43/7 43/8 45/4 46/9 47/21 47/22 48/20 49/25 51/21 53/23  
**can't** [17] 15/10 19/1 24/24 27/6 27/20 27/24 29/18 34/12 35/14 36/7 37/2 39/21 46/5 46/11 48/19 48/21 53/21  
**cannot** [3] 23/17 24/19 34/8  
**car** [1] 33/12  
**cards** [1] 47/25  
**care** [1] 41/2  
**careful** [1] 46/7  
**carefully** [1] 9/8  
**case** [18] 4/1 4/3 4/23 7/7 8/15 17/2 20/14 26/6 26/15 26/16 26/17 27/4 27/5 27/21 30/24 33/19 41/3 43/24  
**Casson** [1] 51/5  
**cat** [1] 16/15  
**CATHERINE** [5] 1/7 3/5 5/5 15/5 20/21  
**caught** [1] 49/19  
**cause** [10] 3/3 13/19 28/8 43/3 43/11 43/13 43/14 51/17 51/22 54/13  
**certainly** [2] 39/3 48/19  
**certify** [1] 54/12  
**character** [1] 49/3  
**charge** [1] 13/2  
**charged** [1] 49/20  
**cheat** [1] 49/21  
**China** [12] 6/8 10/5 14/24 15/2 22/20 23/16 24/16 24/17 32/21 37/15 38/21 40/23

**Chinese** [7] 24/5 24/7 24/9 24/10 24/14 28/4 29/9  
**choice** [1] 52/17  
**choosing** [1] 52/16  
**Circuit** [2] 9/21 34/7  
**circumstance** [1] 35/8  
**circumstances** [2] 39/3 40/12  
**cited** [1] 45/14  
**citizen** [2] 28/3 28/5  
**claim** [5] 9/14 15/15 38/6 43/17 49/16  
**claimed** [4] 6/23 15/8 22/7 39/22  
**claiming** [7] 6/4 6/7 7/15 9/2 9/4 9/10 47/10  
**claims** [4] 14/16 15/3 32/19 32/23  
**clear** [4] 8/13 43/18 45/13 51/2  
**clerk** [1] 27/3  
**clerks** [1] 38/24  
**client** [36] 5/22 6/3 7/16 11/19 12/6 19/21 21/21 26/7 27/10 28/10 29/15 30/21 30/21 31/8 33/7 35/1 35/2 35/6 36/2 36/25 37/13 37/20 38/4 38/6 38/17 39/5 39/24 40/22 41/13 45/24 45/25 47/10 48/16 48/20 49/13 51/19  
**client's** [2] 11/11 33/4  
**clients** [6] 21/6 23/24 37/4 37/4 43/5 43/23  
**closer** [1] 4/20  
**combination** [1] 22/11  
**come** [12] 14/23 16/8 16/11 19/15 20/23 23/16 26/17 33/24 34/21 35/16 40/6 47/13  
**comes** [1] 46/7  
**coming** [5] 14/24 22/20 24/17 27/2 40/16  
**commenced** [1] 21/3  
**comments** [1] 18/25  
**committed** [1] 41/23  
**communicate** [1] 26/19  
**communication** [5] 26/12 26/13 26/21 42/18 43/2  
**Communist** [1] 24/5  
**company** [2] 7/21 48/13  
**complaint** [3] 36/21 36/23 37/1  
**complete** [1] 52/15  
**compliance** [2] 13/25 36/25  
**complied** [5] 18/14 19/3 19/6 19/21 51/23  
**comply** [6] 13/24 15/10 17/15 19/10 36/7 48/17  
**complying** [1] 19/13  
**computer** [13] 2/10 8/16 16/17 16/24 17/1 17/1 17/21 20/25 24/14 24/16 33/18 34/4 39/23  
**computer-aided** [1] 2/10  
**computers** [7] 11/20 19/14 31/4 33/9 36/10 39/16 40/23  
**concern** [4] 11/25 12/2 29/23 47/18  
**concerned** [5] 29/24 29/25 45/25 48/3 48/9  
**concerning** [1] 19/19  
**concerns** [1] 21/1  
**conditions** [1] 8/4  
**confidence** [1] 49/15  
**confident** [1] 49/9  
**confidentiality** [1] 31/2  
**confidentially** [2] 17/20 31/3  
**confirm** [1] 18/16



**C**  
confirming [1] 10/4  
confusion [1] 52/21  
connected [2] 14/20 17/1  
connection [1] 11/14  
consider [5] 9/22 10/22 42/5 46/17 48/13  
considered [1] 33/21  
considering [1] 54/5  
Constantine [1] 1/17  
constitute [1] 39/23  
contact [2] 21/24 23/6  
contacted [8] 5/18 5/21 7/25 16/6 21/1 21/10 21/12 38/13  
contained [1] 15/4  
contempt [3] 13/20 15/13 43/4  
contend [1] 5/25  
continue [3] 10/23 14/13 19/10  
continued [2] 2/1 18/7  
contract [3] 6/9 7/16 7/21  
contractor [4] 16/2 16/6 16/14 20/19  
contractual [1] 8/19  
contractural [1] 9/17  
contradicted [1] 18/17  
contradictory [3] 15/8 18/12 18/15  
contrary [1] 35/15  
control [1] 35/23  
convince [1] 41/22  
copied [1] 15/14  
copy [3] 26/20 50/21 50/24  
correct [6] 4/14 17/18 21/15 24/12 46/24 54/12  
correctly [1] 4/22  
could [11] 8/22 14/12 23/7 24/16 38/3 38/13 39/8 45/6 45/8 46/1 53/14  
counsel [8] 4/7 13/12 23/22 26/2 27/7 29/19 42/10 52/17  
counties [1] 40/12  
country [2] 5/6 38/13  
county [27] 5/25 6/3 6/3 6/10 6/18 6/23 7/5 7/10 7/17 8/5 8/8 8/23 9/3 11/15 12/10 12/18 12/24 12/24 13/8 13/9 38/24 40/10 40/11 40/11 40/17 40/19 40/20  
County's [2] 6/7 6/20  
couple [1] 42/3  
course [3] 11/6 28/6 30/9  
court [34] 1/1 2/4 4/6 4/18 5/22 8/1 9/12 9/22 10/11 14/10 15/13 26/7 27/6 27/25 28/10 30/18 33/19 35/21 38/13 42/5 42/11 42/15 42/22 43/15 44/2 44/18 44/18 45/11 45/15 46/15 47/4 52/12 54/10 54/18  
Court's [4] 5/16 14/2 31/12 48/17  
courthouse [3] 2/5 29/17 30/17  
courtroom [7] 20/7 26/5 28/5 46/22 47/3 48/19 48/21  
credit [5] 9/4 9/5 47/23 47/25 48/1  
crime [1] 41/22  
criminal [1] 46/7  
crosstalk [3] 37/11 41/12 50/9  
CRR [2] 2/5 54/17  
CSR [2] 2/5 54/17  
culpability [2] 9/16 9/18  
custody [1] 35/22  
customers [2] 45/24 46/1  
cut [1] 28/12

cutting [1] 28/13  
CV [1] 1/4  
**D**  
DA [4] 6/20 7/10 8/23 41/21  
Dallas [7] 14/18 15/16 16/3 16/10 20/24 23/6 50/11  
data [64]  
date [6] 5/10 5/11 5/15 27/2 53/22 54/15  
dates [1] 4/16  
day [3] 6/20 9/2 53/5  
days [7] 4/23 5/17 5/21 13/21 32/7 32/25 33/2  
days' [1] 45/5  
deal [3] 8/5 28/9 48/12  
dealing [1] 23/15  
Dean [2] 3/7 3/12  
death [1] 30/7  
decide [5] 9/13 33/5 43/8 52/18 52/18  
decided [1] 28/2  
decides [1] 41/17  
decision [1] 5/16  
default [2] 16/23 17/3  
defendant [3] 3/16 14/15 18/6  
defendants [13] 1/8 1/21 4/25 5/4 8/20 9/1 9/16 10/4 13/13 14/15 18/19 19/6 45/22  
defendants' [8] 8/16 10/19 11/10 32/1 32/1 35/22 39/15 45/14  
defense [2] 34/4 46/18  
delay [1] 54/5  
deliver [1] 50/6  
delivered [1] 51/13  
demonstrate [1] 9/15  
denies [1] 31/8  
Department [3] 12/3 21/14 38/11  
described [1] 28/11  
designed [1] 28/16  
despite [1] 13/25  
destroyed [1] 36/10  
destruction [1] 49/24  
detained [2] 5/24 7/24  
determination [1] 52/19  
did [21] 6/21 7/24 8/20 9/20 21/2 21/16 22/13 25/3 25/7 25/15 31/8 34/24 38/4 39/16 40/19 42/13 42/14 45/18 49/16 51/14 51/15  
didn't [16] 10/13 16/9 26/25 33/22 33/24 33/25 34/4 37/21 41/21 42/9 42/9 43/21 43/23 44/11 46/5 46/13  
difference [1] 8/18  
different [8] 11/2 17/12 25/18 25/19 25/21 37/23 38/22 39/2  
direct [1] 14/2  
directive [1] 6/3  
directly [1] 4/20  
disbarred [1] 49/6  
disclose [5] 13/22 17/20 18/9 31/3 46/20  
disclosed [1] 31/2  
disclosure [1] 35/4  
dismiss [2] 40/8 40/8  
disposed [1] 36/10  
disprove [1] 43/24  
dispute [1] 50/19  
dissolve [2] 44/25 45/4

district [7] 1/1 1/1 1/12 27/18 40/23 41/2 41/16  
DIVISION [1] 1/2  
do [57]  
docket [1] 3/13  
document [8] 31/25 32/9 32/11 45/9 45/20 45/21 45/23 46/4  
documentation [1] 38/19  
documents [3] 42/5 42/11 53/4  
does [7] 7/1 7/11 9/14 24/2 33/16 34/3 39/22  
doesn't [14] 28/21 29/11 34/20 36/15 37/13 39/20 41/7 41/9 46/5 46/6 46/8 46/12 53/4 53/20  
doing [5] 6/19 16/21 24/7 30/20 49/16  
domain [3] 34/19 34/20 36/13  
don't [60]  
done [15] 4/23 17/19 24/15 26/20 27/22 29/10 36/11 46/21 47/2 49/10 49/12 49/18 49/25 50/2 53/25  
door [4] 17/9 17/10 46/7 46/7  
doors [1] 14/21  
down [6] 9/11 15/5 26/17 27/4 34/1 45/11  
downloaded [1] 32/19  
drafted [1] 18/18  
dramatically [1] 33/20  
drive [3] 15/4 36/16 40/10  
driving [1] 10/10  
drones [1] 30/10  
drove [1] 15/4  
during [1] 8/21

**E**  
earlier [1] 5/10  
early [1] 32/20  
easier [1] 47/14  
easy [1] 40/7  
effect [2] 13/24 44/20  
efforts [1] 5/12  
either [12] 20/20 22/14 24/14 26/15 28/14 36/9 42/14 42/24 44/9 44/16 49/19 52/16  
election [2] 20/22 49/14  
electronic [2] 11/12 11/16  
electronically [2] 50/22 50/24  
else [13] 3/14 14/12 17/24 24/2 28/5 29/10 30/3 33/24 40/7 41/25 46/18 51/8 53/9  
else's [3] 30/12 30/15 30/16  
email [1] 26/19  
emphasize [1] 15/20  
ended [1] 8/18  
ENGELBRECHT [11] 1/7 3/22 5/5 15/5 18/19 20/21 25/8 26/8 29/5 30/6 48/8  
Engelburt [1] 25/8  
Englebert [1] 3/5  
enough [3] 29/11 44/11 53/2  
ensure [1] 19/2  
entangling [1] 26/21  
enter [4] 14/10 43/7 47/17 51/21  
entered [1] 4/11  
entering [2] 17/11 46/10  
entities [1] 35/21  
entitled [2] 32/7 54/13  
equipment [4] 12/1 12/3 12/6 12/14

**E**  
**error** [1] 37/1  
**errors** [1] 49/21  
**especially** [1] 36/8  
**essentially** [1] 7/16  
**Eugene** [2] 5/22 9/11  
**even** [7] 11/20 13/23 24/10 35/24 37/9 40/23 43/21  
**event** [1] 27/2  
**ever** [3] 26/15 27/13 43/19  
**every** [2] 15/23 47/23  
**everybody** [1] 18/1  
**everything** [1] 44/10  
**evidence** [21] 10/11 10/15 10/16 10/18 11/6 11/6 20/9 22/18 32/23 35/15 39/8 39/10 39/12 41/3 41/4 41/8 41/10 42/5 46/15 53/15 53/16  
**evidentiary** [4] 31/18 31/19 43/11 44/5  
**ex** [6] 4/24 26/11 26/13 27/6 35/12 42/17  
**ex parte** [6] 4/24 26/11 26/13 27/6 35/12 42/17  
**example** [1] 33/23  
**except** [1] 44/10  
**Excuse** [1] 39/11  
**executed** [1] 12/17  
**expect** [4] 9/9 27/11 30/15 53/16  
**expects** [1] 27/10  
**expiration** [2] 5/10 5/15  
**expire** [1] 5/1  
**expired** [1] 44/7  
**explain** [1] 20/11  
**explained** [1] 20/13  
**Explicitly** [1] 44/14  
**exploited** [1] 8/23  
**exposure** [1] 12/6  
**extend** [3] 5/10 13/23 45/2  
**extended** [1] 44/8  
**extension** [2] 44/8 44/14  
**extent** [1] 9/14  
**extradition** [1] 28/1  
**extraordinary** [1] 27/12  
**eyewitness** [1] 46/12

**F**  
**face** [1] 33/4  
**fact** [11] 9/24 10/18 17/3 19/18 19/23 23/6 34/19 44/20 44/23 45/19 46/11  
**fair** [1] 42/24  
**false** [3] 35/13 35/17 41/16  
**familiar** [1] 44/15  
**family** [1] 30/1  
**far** [1] 31/1  
**FBI** [33] 15/9 15/9 15/11 15/13 18/3 18/5 18/5 18/12 21/1 21/3 21/3 21/6 21/10 21/12 21/17 21/23 21/24 22/6 22/8 25/3 25/4 25/9 25/10 25/17 35/24 36/1 36/5 38/4 38/7 38/8 38/9 39/6 39/6  
**FBI's** [1] 30/19  
**fear** [3] 23/23 23/25 47/12  
**fears** [1] 48/24  
**federal** [7] 17/4 24/23 29/4 29/6 29/7 30/18 36/7  
**feel** [1] 29/15  
**fellow** [1] 16/3  
**fellows** [1] 16/19

**few** [3] 11/9 44/25 48/25  
**Fifth** [1] 9/21  
**figure** [2] 26/18 43/16  
**file** [3] 42/5 53/21 54/6  
**filed** [10] 4/6 10/1 11/1 13/19 15/24 26/8 32/8 33/1 44/21 44/23  
**filing** [4] 53/4 54/3 54/3 54/4  
**find** [6] 20/15 24/22 27/9 27/22 39/4 46/5  
**finding** [1] 13/19  
**fine** [6] 27/2 27/17 33/14 40/19 53/6 54/6  
**finish** [1] 50/10  
**fires** [1] 29/13  
**FIRM** [1] 1/23  
**first** [7] 6/9 9/18 14/11 16/1 37/7 45/20 47/19  
**five** [1] 49/17  
**fix** [1] 49/23  
**flipping** [1] 38/18  
**flying** [1] 30/10  
**folk** [2] 40/18 49/16  
**follow** [2] 23/11 31/24  
**followed** [1] 18/19  
**followers** [2] 18/4 18/7  
**following** [1] 23/12  
**forces** [1] 24/5  
**foregoing** [1] 54/12  
**foreigner** [1] 28/3  
**form** [2] 10/19 51/14  
**forward** [2] 51/24 52/1  
**found** [3] 17/10 32/23 40/24  
**four** [3] 14/22 16/10 49/17  
**frankly** [3] 9/11 19/5 19/12  
**free** [1] 29/16  
**front** [2] 17/9 46/6  
**fully** [1] 53/24  
**further** [2] 26/25 27/13  
**fuss** [1] 49/22

**G**  
**game** [5] 12/7 16/15 48/21 48/23 49/1  
**gasoline** [1] 29/13  
**gather** [3] 21/24 30/3 35/20  
**gathered** [1] 13/10  
**gave** [5] 15/11 15/14 18/11 24/9 34/1  
**generally** [2] 11/4 11/5  
**gentlemen** [6] 3/2 3/25 26/14 51/8 53/9 54/8  
**genuine** [2] 9/23 10/18  
**get** [19] 3/10 4/7 10/14 13/12 13/25 14/22 22/18 27/2 28/17 31/21 32/7 40/5 43/24 45/11 46/1 49/21 49/25 52/23 52/23  
**gets** [1] 27/24  
**getting** [4] 22/11 32/6 34/7 45/24  
**give** [14] 3/10 19/7 19/10 19/16 27/3 28/21 29/14 29/18 33/14 33/14 45/5 48/14 48/15 53/2  
**given** [6] 15/20 16/5 19/24 31/5 46/19 50/20  
**giving** [7] 15/21 26/12 33/23 35/17 45/6 48/6 53/22  
**go** [16] 4/17 4/19 5/20 14/7 16/25 17/7 25/23 26/18 27/17 30/17 32/4 41/20 41/22 42/9 46/1 52/18  
**goes** [2] 18/13 46/8

**going** [38] 4/4 5/14 5/23 9/14 9/20 15/22 18/8 18/8 18/10 26/2 27/23 28/1 28/2 28/20 29/11 29/16 29/19 29/22 30/16 30/20 34/21 36/8 36/23 38/6 43/5 47/17 48/4 48/4 48/14 48/15 50/1 51/19 52/13 53/15 53/18 53/19 53/20 53/25  
**good** [5] 3/18 3/24 44/10 49/8 49/17  
**goods** [1] 33/17  
**got** [19] 14/11 14/19 15/15 15/23 16/1 18/5 23/9 33/11 34/1 34/5 34/12 34/16 37/17 38/12 40/12 42/8 43/9 52/11 52/12  
**gotten** [3] 18/24 33/8 42/18  
**grab** [1] 34/21  
**grand** [3] 41/18 41/21 41/22  
**grant** [1] 46/16  
**granted** [2] 8/3 44/8  
**grave** [1] 31/12  
**great** [1] 45/12  
**GREGG** [6] 1/7 3/4 5/4 14/16 20/20 20/21  
**group** [1] 50/11  
**guess** [2] 21/21 44/1  
**guy** [6] 16/9 16/10 33/11 33/25 34/1 48/24  
**guys** [3] 14/16 14/19 15/25

**H**  
**hack** [2] 34/4 35/2  
**hacked** [6] 24/14 33/1 34/22 39/16 40/17 40/18  
**hacking** [10] 8/16 17/4 24/15 32/6 32/25 33/21 33/22 34/24 39/17 39/22  
**had** [35] 6/7 6/24 7/17 7/24 8/19 9/8 9/16 11/15 13/22 16/7 18/1 18/2 18/20 19/6 20/24 22/8 23/16 24/14 24/15 26/24 30/3 35/7 35/22 36/9 36/14 38/20 39/1 40/9 41/20 41/21 41/22 44/9 45/16 48/5 51/9  
**half** [2] 14/22 16/10  
**handed** [1] 50/15  
**handle** [1] 26/22  
**hands** [3] 8/22 31/24 50/14  
**happen** [6] 5/12 5/14 17/12 26/25 46/6 46/13  
**happened** [6] 9/3 15/6 17/22 26/24 26/25 33/2  
**happy** [2] 10/25 52/1  
**hard** [3] 15/4 36/16 40/9  
**Harris** [3] 40/10 40/17 40/19  
**has** [73]  
**Hasson** [3] 51/3 51/5 51/7  
**hate** [1] 28/3  
**have** [139]  
**haven't** [4] 15/6 18/23 18/24 42/18  
**having** [6] 9/18 27/9 29/10 33/23 38/17 43/3  
**he** [93]  
**he's** [7] 7/22 28/3 28/20 29/25 48/11 48/11 54/3  
**head** [1] 51/6  
**hear** [3] 18/11 41/1 45/13  
**heard** [1] 31/7  
**hearing** [22] 1/11 4/10 5/24 7/25 8/21 9/20 27/24 28/8 36/12 38/17 43/8 43/11 43/12 43/13 43/14 44/4 44/6

**H**  
hearing... [5] 44/6 44/9 44/19 50/12 52/13  
hearsay [1] 39/14  
hell [1] 24/25  
helped [1] 24/3  
helpful [1] 52/12  
helping [1] 29/12  
her [3] 26/19 26/20 30/10  
here [26] 3/6 3/8 4/17 5/20 8/2 10/11 16/8 22/11 23/8 24/7 26/17 30/18 31/23 35/16 36/12 43/5 43/8 43/22 44/12 45/6 45/13 46/22 47/13 48/22 50/1 50/21  
here's [1] 22/17  
hid [1] 45/10  
hide [2] 30/3 36/11  
Hilton [1] 14/18  
him [23] 14/18 16/7 21/25 21/25 23/16 24/3 24/4 28/2 28/5 28/22 28/22 28/23 33/15 40/13 41/6 41/10 41/17 48/14 48/15 48/18 50/1 50/15 50/19  
himself [2] 22/22 30/2  
his [32] 7/10 7/15 8/4 12/6 12/20 12/21 12/21 13/10 14/16 14/17 14/17 14/17 14/19 18/4 18/7 18/20 21/2 30/1 36/15 38/17 38/21 38/22 38/23 39/7 40/9 40/9 40/22 46/12 47/12 48/11 51/3 51/6  
hold [5] 5/19 7/17 14/3 28/2 51/25  
holiday [2] 53/3 53/5  
home [4] 11/16 12/21 30/1 47/20  
Honor [62]  
Honor's [1] 46/20  
HONORABLE [1] 1/11  
hotel [6] 14/18 15/16 16/9 16/19 23/20 37/20  
hours [3] 14/22 16/10 52/13  
house [3] 17/9 17/11 30/10  
HOUSTON [6] 1/2 1/4 1/20 1/24 2/7 15/5  
how [18] 12/1 14/11 15/23 17/20 21/5 21/16 23/12 24/19 29/2 31/3 31/17 37/6 37/8 37/13 37/19 38/3 43/4 53/25  
however [2] 11/17 11/25  
HOYT [1] 1/11  
hustle [1] 49/22

**I**  
I'm [59]  
idea [1] 35/6  
identify [1] 17/17  
identifying [2] 6/24 7/1  
identity [4] 8/22 30/23 35/21 47/8  
immediately [1] 21/1  
importance [1] 9/15  
important [5] 7/9 7/15 9/12 18/3 45/10  
importantly [2] 17/24 32/12  
improperly [1] 33/8  
INC [4] 1/4 1/6 3/4 3/9  
inclined [1] 10/22  
included [4] 10/2 10/3 10/8 14/10  
Incorporated [2] 3/4 3/17  
incumbent [1] 43/15  
independent [4] 16/2 16/6 16/14 20/19  
indicate [2] 22/1 36/15

indicated [1] 47/2  
indicating [2] 42/10 51/12  
indication [1] 11/11  
indictment [2] 6/6 41/19  
indisputable [1] 14/8  
individual [20] 15/15 16/12 19/24 20/4 20/6 20/19 20/21 21/3 22/2 22/3 22/4 22/5 23/21 23/25 24/3 24/11 24/14 26/1 26/10 47/20  
individual's [1] 24/9  
individuals [2] 17/17 30/23  
inferentially [1] 40/3  
information [33] 6/25 7/2 7/2 7/4 7/7 7/12 8/22 11/17 12/7 13/22 16/7 16/11 17/24 18/1 19/8 20/23 21/20 23/10 23/16 24/4 24/13 25/2 25/25 27/4 31/5 31/11 32/6 35/13 40/2 41/24 46/20 48/6 51/10  
initially [1] 16/16  
injunction [23] 1/11 4/9 4/10 4/11 5/11 5/14 5/16 8/15 9/22 10/1 10/2 10/13 10/14 11/5 19/9 28/13 32/2 42/6 44/17 44/19 46/15 51/24 52/2  
inside [1] 46/8  
insists [1] 6/11  
instead [1] 21/2  
integrity [4] 20/22 49/14 49/23 49/24  
intend [1] 48/17  
intended [1] 45/7  
intent [4] 4/2 4/3 12/25 38/18  
intention [1] 23/13  
interest [2] 20/22 39/14  
interested [2] 24/6 25/24  
interesting [1] 37/25  
interests [1] 32/9  
interfered [1] 28/9  
interfering [2] 29/7 29/9  
international [2] 1/18 29/8  
Internet [3] 17/2 39/24 40/16  
introduced [1] 21/3  
investigated [1] 32/22  
investigating [1] 18/6  
investigation [5] 20/2 21/4 22/1 39/17 40/25  
investigator [1] 13/9  
invited [1] 14/18  
involved [7] 10/5 10/20 14/12 22/14 30/24 38/11 44/15  
isn't [1] 26/22  
issue [13] 7/14 9/23 10/18 18/21 19/13 24/22 24/23 28/11 28/14 28/24 33/5 38/10 43/21  
issued [8] 4/22 6/3 6/21 9/1 9/7 32/8 33/19 35/12  
issues [1] 4/3  
it's [36] 7/9 8/9 8/20 9/11 9/11 9/13 9/14 12/8 16/14 17/2 17/8 19/8 20/20 21/19 23/23 28/12 28/24 29/23 30/5 30/14 34/15 39/14 40/16 41/14 44/1 44/7 44/17 44/17 44/24 45/9 47/14 49/9 50/1 52/8 52/17 53/1  
Items [4] 18/13 19/3 19/5 19/10  
its [1] 45/25

**J**  
jail [2] 8/18 48/10  
James [1] 14/21

January [2] 14/19 21/18  
judge [13] 1/12 20/14 24/23 25/1 26/3 27/12 27/13 28/2 29/22 34/11 43/25 48/24 49/3  
jury [3] 41/18 41/21 41/22  
just [27] 5/19 6/2 11/9 14/3 15/7 17/17 19/1 20/10 26/25 27/9 28/4 29/11 30/14 31/23 34/1 36/20 37/3 40/6 43/18 43/19 44/19 46/19 50/10 50/15 52/7 52/12 53/21  
justice [3] 21/14 27/21 38/11

**K**  
KASOWITZ [2] 1/18 3/8  
keep [2] 45/10 48/13  
Ken [1] 35/18  
KENNETH [1] 1/11  
key [2] 17/9 46/6  
kind [7] 6/16 11/11 22/10 23/14 28/12 28/16 39/2  
knew [3] 14/14 16/11 45/18  
know [70]  
knowing [2] 7/19 20/22  
knowledge [2] 21/8 35/22  
KONNECH [35] 1/4 3/4 3/9 5/23 6/3 6/9 6/11 6/17 7/5 7/11 7/21 8/19 10/5 14/24 17/20 24/2 25/4 31/3 32/8 32/10 32/21 32/22 32/24 37/14 37/16 37/16 38/1 39/25 40/1 40/4 40/7 45/9 45/20 45/25 46/4  
Konnech has [1] 39/25  
Konnech's [6] 8/16 11/16 17/21 31/4 40/2 40/8

**L**  
LA [21] 6/2 6/3 6/7 6/10 6/18 6/20 6/23 7/5 7/10 7/17 8/5 8/7 8/23 9/3 11/15 12/3 12/16 13/1 13/8 13/9 13/10  
last [7] 5/14 10/15 11/1 31/20 36/20 44/24 52/11  
late [1] 10/15  
law [5] 29/4 29/6 29/7 33/16 36/6  
lawsuit [6] 15/24 28/22 28/23 28/23 32/7 33/1  
lawyer [1] 18/20  
lawyers [8] 4/2 26/22 28/9 37/2 38/12 49/6 49/8 54/3  
laying [1] 29/10  
least [4] 4/1 4/20 45/5 47/24  
leave [5] 29/16 46/22 47/2 48/19 48/21  
left [3] 5/19 17/9 46/6  
less [2] 28/5 52/12  
let [14] 3/10 4/5 6/14 8/1 17/16 25/3 27/9 30/11 31/2 31/21 33/12 38/3 47/18 50/10  
let's [3] 6/18 40/14 52/19  
letter [12] 14/4 15/14 16/1 18/20 26/11 42/9 42/10 42/19 42/21 43/2 44/2 50/24  
letters [2] 18/17 42/18  
liability [1] 34/24  
liable [1] 34/21  
like [14] 7/6 7/7 14/21 16/8 16/15 17/6 18/14 28/2 30/11 31/11 44/25 52/10 52/10 52/21  
limited [2] 12/24 17/5  
line [2] 27/7 28/12

**L**  
**LinkedIn [1]** 17/7  
**listen [1]** 41/1  
**little [1]** 20/10  
**live [1]** 9/22  
**lives [2]** 6/4 12/13  
**LLP [1]** 1/18  
**local [1]** 13/4  
**located [1]** 12/14  
**long [2]** 9/23 21/16  
**look [14]** 3/25 14/1 16/25 17/7 23/9  
23/11 30/17 32/16 33/13 36/21 36/22  
45/3 45/20 50/7  
**looked [2]** 11/9 46/4  
**looking [6]** 15/1 27/1 30/12 30/16  
30/20 32/18  
**loose [1]** 24/25  
**Los [5]** 40/11 40/18 40/20 41/16 41/17  
**Los Angeles [1]** 40/11  
**lose [1]** 41/3  
**lot [1]** 49/6  
**lottery [1]** 9/10  
**Louisiana [1]** 1/19  
**ludicrous [1]** 9/12  
**lying [1]** 24/15

**M**  
**made [9]** 5/12 7/14 10/4 13/22 19/21  
28/15 39/2 43/14 49/21  
**made-up [1]** 28/15  
**main [1]** 46/3  
**maintaining [1]** 40/25  
**make [4]** 16/8 28/20 29/11 34/3  
**makes [2]** 28/4 30/21  
**making [1]** 36/12  
**Malone [3]** 2/5 54/16 54/17  
**man [4]** 23/15 23/15 29/6 48/7  
**man's [1]** 48/3  
**manager [3]** 26/16 27/5 27/5  
**manner [1]** 11/21  
**many [1]** 18/2  
**Mark [3]** 1/22 3/19 36/19  
**mat [1]** 17/9  
**material [2]** 9/23 10/18  
**matter [13]** 3/2 4/12 8/5 8/15 15/10  
26/1 26/14 27/1 28/21 32/5 44/8 47/18  
54/5  
**matters [5]** 4/1 11/12 20/23 51/13  
51/22  
**matters and [1]** 20/23  
**may [9]** 11/10 20/10 27/21 37/24 37/24  
44/15 47/4 48/16 49/2  
**maybe [4]** 11/8 43/1 43/9 48/10  
**Mayra [3]** 2/5 54/16 54/17  
**me [43]** 3/10 3/11 4/1 4/5 6/14 7/20  
11/3 13/16 15/20 17/16 18/6 21/12  
23/9 24/9 25/3 26/3 26/12 26/21 27/9  
27/11 27/14 29/7 29/11 29/18 29/18  
30/5 30/11 31/2 31/21 31/24 33/17  
34/1 34/4 34/15 38/3 39/11 42/8 47/13  
47/19 48/5 48/6 50/10 51/23  
**mean [19]** 4/10 17/1 22/7 24/1 25/2  
25/19 25/21 26/24 27/1 30/17 30/21  
34/20 37/2 40/7 46/5 46/6 46/12 48/12  
53/21  
**meaning [5]** 16/3 16/19 18/6 37/2  
40/18

**means [1]** 53/21  
**mechanical [1]** 2/10  
**media [1]** 4/3  
**meet [1]** 15/5  
**meeting [1]** 15/6  
**meets [1]** 23/19  
**mentioned [1]** 9/1  
**merit [1]** 43/16  
**Michigan [9]** 5/25 6/4 7/24 12/10  
12/12 12/18 12/19 13/6 40/11  
**microphone [1]** 4/19  
**midnight [1]** 14/19  
**might [11]** 4/7 6/19 12/1 14/12 24/6  
27/22 34/22 34/22 35/8 46/1 53/17  
**Mike [1]** 51/3  
**million [2]** 32/20 47/19  
**millions [2]** 14/25 14/25  
**mine [1]** 50/22  
**minute [1]** 48/16  
**minutes [1]** 11/9  
**misinformation [1]** 45/24  
**misread [2]** 43/1 43/2  
**missing [1]** 46/9  
**misstated [1]** 44/13  
**mistreated [1]** 49/20  
**misused [1]** 12/2  
**modify [1]** 35/15  
**moment [1]** 15/23  
**Monday [2]** 53/3 53/5  
**money [1]** 33/15  
**monitor [1]** 14/20  
**moot [1]** 19/8  
**more [4]** 7/19 16/13 17/2 42/3  
**most [2]** 17/23 32/5  
**motion [27]** 5/13 5/16 6/13 10/1 10/1  
10/2 10/14 11/9 11/10 13/19 14/14  
16/15 16/17 16/25 32/1 32/2 43/3 43/4  
43/17 44/18 44/24 44/24 46/14 46/16  
51/11 51/15 52/9  
**mouse [1]** 16/16  
**move [1]** 43/15  
**Mr [19]** 4/14 8/19 8/24 9/2 9/19 10/3  
11/15 11/16 16/2 19/20 28/25 29/4  
29/25 39/18 44/16 45/18 50/14 50/14  
51/6  
**Mr. [29]** 4/5 6/4 6/12 6/21 7/4 7/11  
7/20 8/14 8/18 10/11 16/7 18/2 20/24  
22/19 22/21 23/1 23/5 23/15 23/19  
23/20 25/4 25/7 25/8 26/7 28/20 29/5  
30/6 36/12 48/8  
**Mr. Pamphilis [1]** 4/5  
**Mr. Phillips [18]** 18/2 20/24 22/19  
22/21 23/1 23/5 23/15 23/19 23/20  
25/4 25/7 25/8 26/7 28/20 29/5 30/6  
36/12 48/8  
**Mr. Phillips and [1]** 16/7  
**Mr. Yu [8]** 6/4 6/12 6/21 7/4 7/11 7/20  
8/14 8/18  
**Mr. Yu's [1]** 10/11  
**Ms. [5]** 25/8 26/8 29/5 30/6 48/8  
**Ms. Engelbrecht [4]** 26/8 29/5 30/6  
48/8  
**Ms. Engelburt [1]** 25/8  
**much [1]** 17/2  
**multiple [1]** 13/25  
**my [45]** 5/20 5/22 6/6 7/16 10/17 11/19  
11/25 12/2 12/23 13/9 15/22 16/13

16/15 17/9 17/9 17/9 17/10 17/11 21/6  
22/17 23/13 23/24 26/15 27/4 27/5  
27/25 28/12 29/20 29/24 31/17 31/23  
33/7 33/12 34/4 37/4 41/2 41/18 43/15  
45/24 46/6 48/16 48/24 49/13 50/21  
50/24

**N**  
**name [34]** 15/15 15/17 15/21 16/5  
17/13 19/24 23/21 23/25 24/9 24/10  
26/2 26/12 28/4 28/22 29/6 30/13  
35/24 36/1 36/3 36/4 36/5 36/18 44/10  
46/24 46/24 50/3 50/5 50/13 50/16  
50/19 50/20 51/1 51/3 51/4  
**names [8]** 3/11 6/15 20/7 47/20 48/1  
50/8 50/11 50/11  
**narrows [1]** 33/20  
**Nathan [3]** 1/17 3/7 3/15  
**Nathan's [1]** 27/3  
**national [5]** 21/1 24/22 28/11 28/24  
38/10  
**necessarily [1]** 34/20  
**necessitate [1]** 11/5  
**need [26]** 3/25 4/4 4/8 17/7 19/2 19/9  
19/9 24/2 24/24 25/10 25/10 26/13  
31/23 33/5 36/11 38/9 38/9 38/10 39/6  
43/10 43/13 43/13 50/7 50/25 51/12  
51/20  
**needs [2]** 8/4 46/16  
**neither [1]** 26/14  
**never [4]** 6/11 27/13 35/7 39/16  
**new [1]** 33/11  
**newspaper [1]** 47/22  
**next [2]** 8/10 47/23  
**nice [1]** 52/14  
**night [7]** 5/14 10/15 11/1 16/9 31/20  
44/24 52/11  
**Ninth [1]** 34/6  
**no [45]** 8/23 9/17 9/23 10/15 10/16  
10/18 15/19 17/11 17/14 18/25 20/7  
21/8 21/9 21/10 21/12 21/12 21/13  
21/24 22/7 22/25 23/17 24/7 26/5  
26/25 32/23 34/14 35/6 35/9 35/19  
37/18 38/22 39/17 42/9 42/12 42/15  
42/23 43/18 45/18 48/5 48/6 49/7  
50/19 52/8 53/10 53/11  
**nobody [4]** 21/14 26/15 30/3 37/17  
**nods [1]** 51/6  
**none [4]** 36/6 40/1 40/1 40/21  
**nosy [1]** 30/14  
**not [111]**  
**note [1]** 7/9  
**noted [1]** 8/21  
**nothing [2]** 33/2 36/14  
**notice [2]** 45/5 45/7  
**notified [1]** 15/13  
**now [23]** 4/17 5/13 7/9 8/6 9/1 12/6  
13/11 13/13 14/9 15/3 20/1 24/8 28/21  
29/14 30/2 36/15 37/14 38/14 48/11  
48/14 48/15 49/7 49/25  
**nowhere [1]** 38/1  
**Number [7]** 3/3 17/16 17/24 17/25  
17/25 31/25 35/20  
**numbers [4]** 6/16 7/8 47/21 47/21

**O**  
**object [1]** 47/15

**O**  
**obstructing [1]** 27/21  
**obtain [1]** 6/10  
**obtained [1]** 6/17  
**obviously [2]** 14/9 45/12  
**occur [1]** 21/17  
**occurred [1]** 21/16  
**OCTOBER [3]** 1/5 8/9 54/15  
**October 14th [1]** 8/9  
**odds [1]** 18/10  
**off [5]** 29/10 32/11 40/5 48/20 51/25  
**offense [1]** 45/12  
**offensive [1]** 9/11  
**offer [2]** 39/8 39/13  
**office [6]** 11/16 25/18 25/19 27/1 27/3 30/19  
**OFFICIAL [2]** 2/4 54/18  
**officials [2]** 12/24 38/24  
**Oh [4]** 10/7 25/7 30/5 47/1  
**okay [16]** 3/24 8/12 9/6 12/22 20/10 20/16 23/1 23/19 25/23 27/8 27/15 29/19 32/15 43/6 47/1 52/22  
**once [2]** 9/19 19/10  
**one [17]** 4/2 5/19 6/21 14/3 15/21 15/22 16/13 16/13 19/7 21/2 25/20 29/25 37/12 46/24 47/10 47/23 50/13  
**one-page [1]** 6/21  
**one-time [1]** 19/7  
**ones [1]** 45/22  
**online [1]** 26/18  
**only [9]** 6/5 7/4 10/11 12/4 12/4 12/5 38/2 49/18 50/13  
**open [1]** 17/6  
**opened [1]** 17/10  
**opens [1]** 46/7  
**opportunity [2]** 52/11 53/14  
**oppose [1]** 42/4  
**opposing [3]** 4/7 13/12 42/4  
**opposite [1]** 35/16  
**opposition [2]** 11/10 32/1  
**order [25]** 4/11 13/14 15/10 16/18 17/16 17/19 19/22 22/9 26/3 27/13 31/2 35/3 35/4 35/12 41/23 43/7 43/11 43/15 47/5 47/16 47/17 48/17 49/14 51/12 51/21  
**ordered [5]** 26/4 30/22 35/4 35/21 47/1  
**ordering [3]** 28/21 29/14 43/7  
**orders [2]** 35/4 46/20  
**organizations [1]** 30/23  
**originally [1]** 4/9  
**other [13]** 4/2 5/15 8/4 11/12 11/20 15/1 23/8 26/20 30/19 34/20 44/20 50/8 50/11  
**otherwise [2]** 26/21 34/7  
**ought [1]** 35/13  
**our [19]** 5/13 5/16 6/13 13/25 14/14 15/2 16/25 19/14 19/15 30/18 31/20 32/24 37/4 39/9 40/24 42/16 44/2 45/13 53/24  
**out [17]** 5/6 5/6 16/14 20/15 23/8 24/22 24/25 26/18 27/9 27/22 33/10 37/25 39/4 40/16 43/16 45/23 48/11  
**outside [1]** 6/11  
**over [31]** 6/1 8/18 11/9 15/9 18/3 18/4 18/12 21/19 22/6 22/8 22/9 22/15 24/16 29/23 30/10 33/13 35/9 36/2

36/7 38/4 38/7 38/8 38/12 39/5 39/6 39/24 41/14 41/15 44/10 47/25 50/12  
**overall [1]** 49/14  
**own [11]** 8/4 10/19 21/2 29/24 33/4 36/15 39/15 39/15 40/24 46/12 46/13  
**P**  
**P.M [1]** 1/5  
**page [3]** 6/21 17/7 32/17  
**Pages [1]** 32/13  
**pains [1]** 35/17  
**Pamphilis [5]** 1/17 3/7 3/12 4/5 50/14  
**paper [1]** 50/14  
**papers [10]** 10/22 10/24 11/8 27/25 31/8 52/3 52/5 52/7 52/14 52/21  
**paragraph [3]** 45/21 46/21 46/23  
**Parkway [1]** 1/23  
**part [13]** 5/9 6/17 10/8 11/8 19/2 20/2 20/4 20/20 31/9 31/10 40/24 41/14 51/11  
**parte [6]** 4/24 26/11 26/13 27/6 35/12 42/17  
**particular [4]** 20/4 20/22 26/10 46/21  
**parties [6]** 4/2 4/13 5/8 43/16 44/9 44/16  
**Party [1]** 24/6  
**pass [1]** 44/3  
**password [4]** 16/23 17/3 17/7 17/12  
**Pause [1]** 31/22  
**PD's [1]** 12/16  
**penalties [1]** 35/17  
**people [11]** 15/25 15/25 17/14 25/20 30/19 34/21 38/18 48/2 49/18 49/19 49/21  
**people's [1]** 48/1  
**per [1]** 34/8  
**perhaps [3]** 17/25 31/8 49/22  
**perjury [1]** 35/17  
**person [14]** 13/10 15/18 15/22 16/11 16/13 23/6 23/7 23/12 30/13 34/19 34/24 46/11 47/8 47/9  
**person's [1]** 47/23  
**personal [5]** 6/24 7/1 8/21 21/8 32/20  
**personally [2]** 21/9 30/14  
**persons [2]** 35/4 35/21  
**PHILLIPS [32]** 1/7 3/5 3/20 5/5 14/16 16/7 18/2 18/6 18/19 20/20 20/21 20/24 21/21 22/7 22/14 22/19 22/21 23/1 23/5 23/15 23/19 23/20 25/4 25/7 25/8 26/7 28/20 29/5 30/6 36/12 40/14 48/8  
**phone [2]** 6/16 49/25  
**picture [1]** 46/8  
**pictures [2]** 9/9 9/10  
**piece [1]** 50/14  
**place [7]** 9/18 13/20 14/11 25/20 25/21 45/25 47/25  
**placed [2]** 6/8 14/20  
**plaintiff [12]** 1/5 1/16 3/6 3/9 27/24 39/23 41/7 41/9 41/23 43/9 48/10 52/17  
**plaintiffs [8]** 23/22 31/14 31/16 32/1 32/2 39/15 39/15 42/4  
**plaintiffs [2]** 20/13 30/24  
**planned [1]** 18/23  
**play [3]** 48/21 48/22 49/1  
**played [3]** 49/2 49/8 49/10

**playing [1]** 12/7  
**plays [1]** 48/23  
**pleading [2]** 10/8 38/23  
**pleadings [10]** 30/3 31/13 31/14 31/15 31/16 37/21 38/16 38/21 38/22 39/1  
**please [2]** 4/20 39/9  
**plural [1]** 15/24  
**PM [1]** 54/10  
**podcasts [2]** 10/3 18/2  
**point [14]** 8/24 10/17 16/13 21/25 28/7 35/9 37/10 37/18 37/25 43/8 45/18 45/19 47/22 51/21  
**pointing [1]** 32/4  
**points [1]** 19/21  
**police [3]** 12/3 13/5 13/6  
**poll [8]** 6/7 6/10 7/6 8/17 8/17 9/17 14/25 32/20  
**popularity [1]** 28/16  
**portion [1]** 32/17  
**posing [2]** 9/10 38/5  
**position [4]** 13/11 13/13 25/11 36/11  
**possessing [1]** 37/22  
**possession [6]** 10/20 12/8 12/9 19/15 22/8 35/22  
**precedent [1]** 9/21  
**preceding [1]** 18/18  
**prefer [2]** 48/17 50/18  
**preliminary [20]** 1/11 4/10 5/11 5/14 5/16 8/15 9/22 10/1 10/2 10/13 10/14 11/4 19/8 32/2 42/6 44/17 44/19 46/15 51/24 52/2  
**premise [1]** 39/19  
**prepare [1]** 51/12  
**presented [2]** 4/1 10/18  
**president [4]** 5/23 7/22 8/19 49/6  
**press [12]** 6/1 6/5 6/21 7/10 7/15 7/20 9/2 9/7 32/8 32/9 40/24 41/19  
**pressed [3]** 14/9 15/19 16/1  
**pretty [1]** 49/16  
**prevent [1]** 53/4  
**previous [1]** 3/3  
**primarily [1]** 12/1  
**prior [1]** 15/24  
**problem [5]** 26/6 28/12 36/21 40/20 40/21  
**proceed [10]** 4/19 42/6 42/9 42/11 42/22 43/4 51/24 52/1 52/10 52/21  
**proceeding [4]** 11/3 27/23 28/16 45/2  
**proceedings [4]** 2/10 2/12 28/10 54/13  
**process [2]** 49/23 49/23  
**proclaim [1]** 45/18  
**produce [1]** 28/16  
**produced [1]** 2/10  
**pronounce [1]** 29/2  
**protect [4]** 9/16 14/13 30/1 47/18  
**protected [8]** 16/17 16/24 17/1 17/21 19/14 24/2 31/4 47/9  
**protecting [3]** 7/7 47/6 47/7  
**protecting in [1]** 7/7  
**protection [3]** 25/25 48/7 48/9  
**protective [3]** 47/5 47/15 47/17  
**prove [1]** 46/12  
**proven [2]** 46/13 46/14  
**provided [4]** 15/3 21/20 21/23 30/23  
**public [6]** 13/21 34/15 34/18 34/18 34/20 36/13

**P**  
publicity [1] 28/17  
publicly [3] 18/8 34/8 34/9  
Pull [1] 4/19  
purpose [1] 44/6  
purposes [1] 19/8  
put [4] 31/23 40/15 40/16 53/15  
puts [1] 34/19  
putting [2] 53/16 53/23  
puzzling [1] 11/3

**Q**  
question [14] 4/17 6/14 11/7 12/2  
20/18 22/17 25/6 28/1 31/12 36/21  
37/3 38/6 42/3 51/23  
questions [3] 4/8 42/3 46/1  
quite [1] 16/12  
quote [3] 21/17 21/20 37/14  
quotes [1] 14/16  
quoting [1] 15/22

**R**  
ran [1] 30/1  
read [4] 47/21 50/19 50/25 51/2  
reading [1] 35/2  
realized [1] 9/19  
really [7] 9/13 18/13 26/12 28/21 40/22  
41/1 49/15  
reason [6] 7/13 14/10 22/19 26/16  
48/2 49/7  
recall [1] 21/17  
recalled [1] 4/22  
received [10] 6/17 7/2 7/5 15/17 18/24  
26/9 30/7 35/5 38/24 47/11  
recite [2] 23/17 24/19  
recognized [2] 18/4 20/25  
record [8] 46/21 50/15 50/19 50/25  
51/2 51/2 52/15 54/13  
recorded [1] 2/10  
records [3] 7/8 14/25 30/18  
reference [1] 45/21  
referred [3] 15/23 15/24 44/3  
referring [1] 10/9  
refused [1] 13/24  
refuses [1] 26/9  
relates [2] 33/18 34/24  
release [15] 6/21 6/23 7/10 7/16 7/20  
9/2 9/7 18/8 21/17 23/21 23/24 26/2  
32/9 40/24 41/19  
released [4] 6/18 7/25 28/7 40/15  
relevant [2] 9/13 9/14  
rely [1] 19/1  
repeatedly [1] 13/24  
replies [2] 53/25 54/3  
reply [8] 11/1 52/11 53/20 53/20 53/22  
53/24 54/4 54/6  
report [2] 8/4 8/7  
reported [1] 25/20  
REPORTER [2] 2/4 54/18  
represent [2] 22/3 53/23  
representations [1] 36/13  
representative [1] 5/22  
representing [5] 3/16 3/20 3/22 21/25  
21/25  
request [2] 42/4 51/17  
require [1] 40/13  
reschedule [2] 5/1 5/9

rescheduled [1] 5/2  
research [1] 9/21  
reset [3] 3/2 4/12 4/15  
resides [1] 11/21  
respect [2] 11/23 34/22  
respectfully [1] 43/10  
respond [6] 19/21 45/8 52/15 53/14  
53/18 53/25  
responding [1] 20/8  
response [17] 4/7 5/13 7/14 10/14  
13/12 19/1 25/17 25/20 31/20 31/21  
39/9 42/16 44/23 46/14 52/23 54/3  
54/4  
responses [1] 54/3  
responsibility [2] 9/3 9/4  
responsible [1] 10/7  
restraining [3] 4/11 13/14 19/22  
retrieve [1] 24/16  
retrieved [1] 20/18  
reviewing [1] 18/22  
revisit [1] 35/14  
revisited [1] 35/13  
Richardson [3] 1/17 3/8 3/15  
right [28] 3/25 5/7 8/19 9/17 13/11  
19/17 19/20 21/10 21/21 22/17 24/13  
27/16 28/21 29/17 29/21 30/4 35/11  
36/15 45/13 46/17 47/1 48/5 48/14  
50/1 50/17 51/17 53/9 54/2  
rights [2] 38/19 38/20  
RMR [2] 2/5 54/17  
romanettes [1] 14/6  
room [6] 2/6 14/20 15/16 16/10 34/16  
37/21  
ruined [1] 48/1  
rule [5] 10/21 10/24 39/14 45/3 52/13  
Rule 65 [1] 45/3  
rules [1] 44/18  
Rusk [1] 2/6

**S**  
safety [6] 23/24 23/25 29/24 47/12  
48/2 48/3  
said [28] 7/17 11/10 12/5 13/21 14/20  
14/22 14/23 16/15 16/16 16/22 16/24  
18/20 20/23 27/9 33/5 33/13 34/7  
37/16 37/16 37/21 38/1 38/7 39/16  
40/22 42/24 44/2 47/14 50/5  
said because [1] 16/22  
same [6] 8/17 9/2 17/8 27/8 39/18  
39/19  
sanctioned [1] 49/7  
saw [8] 10/6 11/11 20/24 22/22 22/23  
23/2 36/13 37/21  
say [22] 6/15 6/18 14/16 17/21 18/7  
25/1 27/16 30/11 31/7 33/16 33/22  
35/6 36/8 39/5 40/6 40/14 42/20 43/25  
45/8 50/12 50/23 52/19  
saying [19] 16/2 16/14 17/3 17/22  
18/17 23/5 26/9 33/1 33/24 35/2 37/14  
39/22 41/2 41/5 41/7 42/2 42/21 45/10  
54/4  
says [20] 7/10 9/21 17/16 19/13 33/3  
33/8 33/11 33/14 33/25 34/16 39/18  
39/18 39/23 40/1 40/3 40/4 40/24  
41/19 46/4 48/7  
screen [1] 14/23  
script [1] 38/18

scrubbed [1] 32/12  
se [1] 34/8  
seal [1] 48/5  
sealed [2] 6/7 15/13  
search [2] 11/15 12/17  
second [2] 5/19 14/3  
secrets [3] 20/7 24/24 26/5  
Sections [1] 17/15  
secure [1] 40/13  
secured [3] 40/3 40/10 41/24  
security [10] 7/8 21/1 24/22 24/23  
28/11 28/24 38/10 47/21 48/3 48/4  
see [10] 9/9 16/8 17/16 19/12 23/10  
30/20 31/2 45/3 45/21 47/21  
seeing [1] 37/22  
seeking [1] 51/14  
seems [2] 4/1 48/22  
seen [5] 6/6 8/24 15/7 22/23 39/25  
seized [8] 11/12 11/16 11/21 11/24  
11/25 13/1 13/3 13/4  
seizing [1] 12/3  
sell [2] 7/11 8/24  
selling [1] 34/2  
send [2] 42/9 42/10  
sending [2] 12/7 39/1  
sense [5] 11/2 11/4 29/11 30/21 34/3  
sensitive [1] 8/20  
sent [5] 29/7 37/14 38/21 38/22 38/23  
separately [1] 9/8  
September [3] 4/23 10/12 13/20  
September 12th [2] 4/23 13/20  
serious [3] 20/25 28/14 47/18  
served [1] 4/25  
server [5] 6/8 10/5 14/24 15/2 32/21  
servers [3] 7/18 11/12 40/25  
set [2] 24/15 43/11  
setting [1] 3/3  
several [1] 11/2  
shared [1] 24/3  
she [4] 27/5 27/6 30/9 38/4  
sheet [1] 3/13  
sheriff [1] 13/7  
should [12] 17/21 19/12 26/15 27/7  
29/25 30/15 41/11 47/9 48/2 48/9  
52/18 52/23  
shouldn't [3] 29/12 41/6 41/10  
show [13] 3/13 10/19 13/19 27/24 28/8  
28/8 34/17 43/3 43/11 43/13 43/14  
51/17 51/22  
showed [1] 37/20  
shown [1] 30/12  
shows [1] 17/5  
side [4] 26/15 26/20 42/24 48/20  
sideline [1] 48/22  
signed [4] 5/12 18/24 44/17 44/18  
significant [1] 32/5  
significantly [1] 32/12  
signing [1] 18/23  
simply [6] 10/17 17/1 28/16 52/19  
53/18 53/21  
Simultaneous [3] 37/11 41/12 50/9  
since [2] 13/20 32/11  
sir [6] 32/3 32/14 36/18 42/15 53/10  
53/13  
sit [1] 50/1  
sitting [2] 8/2 24/25  
six [1] 49/17

**S**  
**small** [1] 14/4  
**so** [73]  
**Social** [3] 7/8 9/8 47/21  
**sold** [2] 8/25 47/22  
**some** [19] 4/1 4/8 9/3 11/5 11/5 11/11  
 19/3 21/25 28/16 30/13 33/11 34/22  
 34/23 38/12 39/1 41/21 46/7 47/22  
 48/2  
**somebody** [15] 27/4 28/12 29/9 29/10  
 30/12 30/15 30/16 30/16 30/19 34/12  
 38/13 40/6 40/7 41/15 41/20  
**somehow** [2] 38/21 45/10  
**someone** [8] 9/9 12/6 17/10 23/9  
 33/24 34/15 41/25 43/14  
**someplace** [2] 12/7 23/11  
**something** [14] 6/1 31/17 34/17 34/19  
 35/3 36/7 38/7 38/16 39/2 41/13 41/15  
 45/10 48/12 49/18  
**somewhat** [1] 11/3  
**somewhere** [3] 24/25 40/11 40/17  
**soon** [1] 18/5  
**sorry** [11] 3/10 5/20 10/7 11/19 19/6  
 25/7 25/8 36/18 37/12 50/4 52/20  
**sound** [1] 16/8  
**source** [4] 12/4 26/6 39/7 48/11  
**SOUTHERN** [1] 1/1  
**space** [1] 40/15  
**sparked** [1] 45/22  
**speak** [1] 4/20  
**speaking** [1] 11/4  
**specifically** [3] 7/10 14/1 45/14  
**spent** [1] 16/9  
**spewing** [1] 45/23  
**stand** [4] 25/10 39/20 43/25 54/2  
**standing** [1] 25/11  
**started** [2] 16/14 18/5  
**state** [2] 5/6 45/1  
**stated** [3] 6/12 18/4 31/5  
**statement** [8] 15/22 19/3 23/4 39/15  
 39/16 53/18 53/19 53/24  
**statements** [12] 10/4 10/19 13/21  
 14/15 15/8 18/12 18/15 18/18 19/2  
 45/15 45/15 45/16  
**STATES** [7] 1/1 1/12 6/12 21/13 29/9  
 33/20 38/25  
**status** [1] 26/17  
**statute** [1] 39/21  
**stays** [1] 44/20  
**steal** [1] 33/25  
**steals** [1] 34/19  
**stenography** [1] 2/10  
**step** [1] 48/20  
**still** [6] 11/20 11/22 13/24 18/23 36/12  
 45/4  
**stole** [1] 40/6  
**stolen** [4] 6/7 6/24 33/17 34/23  
**stop** [1] 28/13  
**stored** [1] 6/11  
**street** [3] 23/9 33/10 34/1  
**stumble** [1] 17/12  
**stunt** [1] 28/17  
**submit** [2] 10/25 48/5  
**submitted** [6] 5/11 6/13 10/12 31/19  
 44/17 54/1  
**Subsections** [1] 14/2  
**such** [1] 47/5

**suddenly** [1] 27/24  
**sued** [3] 24/2 25/4 25/9  
**suit** [4] 39/19 40/8 40/9 40/9  
**Suite** [2] 1/19 1/24  
**suits** [2] 33/11 33/15  
**support** [2] 10/12 10/13  
**supports** [1] 51/10  
**Supreme** [1] 33/19  
**Sure** [2] 20/12 42/1  
**Surely** [2] 38/13 39/6  
**suspect** [2] 16/11 28/8  
**swear** [2] 34/12 35/16  
**swearing** [1] 23/5  
**sworn** [4] 19/3 53/17 53/19 53/24  
**systems** [1] 32/24

---

**T**  
**take** [5] 12/25 19/15 37/2 45/12 46/8  
**taken** [3] 12/9 32/11 33/24  
**takes** [2] 34/15 46/8  
**taking** [7] 8/17 9/4 9/5 12/6 13/10  
 33/23 53/19  
**talk** [4] 26/22 27/6 27/20 29/15  
**talked** [1] 36/8  
**talking** [12] 6/15 14/4 20/6 22/4 24/8  
 34/6 37/10 38/1 39/25 40/22 42/17  
 46/24  
**team** [4] 13/10 14/17 15/25 15/25  
**tear** [1] 49/24  
**telephone** [4] 26/16 26/22 27/8 47/20  
**tell** [15] 6/5 13/16 17/25 23/9 25/4 30/5  
 30/13 33/13 34/16 35/8 36/8 46/9  
 47/13 47/19 48/17  
**telling** [2] 31/24 52/17  
**temporary** [5] 4/9 4/10 4/11 13/14  
 19/22  
**term** [1] 16/17  
**test** [1] 39/2  
**testimony** [5] 9/23 10/24 11/5 15/7  
 35/17  
**TEXAS** [7] 1/1 1/4 1/20 1/24 2/7 14/18  
 40/10  
**than** [7] 7/19 8/4 16/13 17/2 28/5 49/4  
 52/13  
**Thank** [4] 4/21 20/17 54/8 54/9  
**that be** [1] 12/4  
**that's** [58]  
**theft** [1] 34/8  
**their** [26] 5/2 7/14 9/16 9/17 13/25  
 17/5 18/20 19/1 20/22 20/25 32/8  
 32/12 33/8 37/17 38/16 39/16 39/17  
 40/25 41/3 43/24 46/3 46/13 46/14  
 47/20 48/1 48/2  
**them** [38] 5/22 8/1 12/3 13/9 13/17  
 14/9 14/10 14/22 15/7 15/12 15/14  
 16/1 18/16 18/23 18/23 19/9 22/11  
 23/11 24/25 25/1 25/13 27/20 28/23  
 29/12 29/14 29/15 33/12 33/13 33/14  
 34/1 34/2 41/14 41/22 41/23 43/7  
 43/20 47/1 53/16  
**themed** [1] 28/15  
**themselves** [1] 52/5  
**then** [21] 14/19 15/3 15/9 16/15 18/5  
 18/7 22/6 24/16 25/1 27/25 29/10  
 29/18 32/8 38/8 41/6 41/10 41/11  
 43/24 48/12 50/6 50/25  
**theoretically** [1] 34/25

**there** [49] 6/16 9/21 9/23 10/15 10/15  
 10/17 10/17 11/2 11/7 12/5 13/8 13/8  
 14/19 17/14 18/21 18/25 19/12 20/7  
 21/7 21/23 22/1 24/7 24/24 25/1 26/5  
 27/4 28/1 28/2 31/10 34/23 35/9 36/24  
 38/15 38/22 39/17 40/16 43/3 44/25  
 44/25 45/21 45/23 46/9 47/25 48/1  
 48/6 50/8 50/10 50/13 50/19  
**there's** [8] 8/23 10/16 20/2 27/25  
 29/11 36/14 37/1 43/16  
**these** [11] 14/9 14/10 18/17 19/1 29/13  
 34/1 45/22 47/23 49/16 51/13 51/22  
**they** [139]  
**thief** [1] 33/16  
**thieves** [1] 8/22  
**thing** [7] 16/1 19/7 21/2 27/12 39/18  
 39/19 47/23  
**things** [3] 19/18 37/23 46/8  
**think** [25] 5/19 9/11 9/12 10/21 16/24  
 18/10 22/14 25/3 28/4 30/19 38/15  
 38/16 42/24 45/1 45/4 45/9 46/15  
 48/25 49/3 50/21 51/11 51/14 51/19  
 52/14 53/3  
**thinking** [1] 49/2  
**this** [121]  
**thorough** [1] 39/17  
**thoroughly** [1] 32/22  
**those** [12] 3/11 4/16 11/20 19/17 24/5  
 33/2 40/12 40/18 45/15 45/16 49/7  
 50/11  
**though** [5] 11/20 13/23 24/17 26/6  
 33/6  
**thought** [4] 42/8 43/21 45/6 49/5  
**thousands** [1] 38/12  
**threats** [2] 13/22 30/7  
**three** [3] 33/11 33/15 49/17  
**through** [12] 6/10 18/13 18/21 19/4  
 19/5 19/6 19/7 19/10 19/11 19/13  
 19/22 32/13  
**through 4** [1] 19/4  
**throwing** [1] 29/13  
**time** [13] 5/6 7/23 7/25 15/23 18/22  
 19/7 20/1 22/9 27/8 37/12 43/18 44/8  
 53/2  
**titled** [1] 44/24  
**today** [10] 3/3 4/15 5/9 9/13 13/24  
 26/2 29/17 43/19 44/12 45/6  
**today's** [2] 5/24 7/25  
**together** [2] 22/11 43/16  
**told** [10] 14/23 15/12 16/7 18/22 21/6  
 22/23 23/1 25/9 25/13 25/18  
**too** [1] 29/25  
**took** [4] 9/10 10/20 14/22 45/19  
**top** [1] 28/12  
**TORRES** [2] 1/18 3/8  
**towels** [1] 14/21  
**Tower** [1] 1/18  
**transcript** [3] 1/11 2/10 54/12  
**transcription** [1] 2/10  
**transcripts** [1] 45/16  
**TRO** [27] 4/22 5/1 5/10 5/15 6/13 8/21  
 10/2 10/13 13/20 14/1 14/15 18/13  
 19/2 36/22 36/24 39/19 42/16 43/22  
 44/7 44/14 44/20 44/25 45/4 45/11  
 45/14 45/17 51/10  
**true** [12] 1/6 3/4 3/16 6/22 20/20 28/15  
 30/25 32/19 32/22 41/16 45/12 49/13

**T**  
**trunk** [1] 33/12  
**trusting** [1] 16/12  
**truth** [7] 9/8 18/20 32/10 32/22 45/9 45/20 46/4  
**try** [3] 19/14 19/15 30/1  
**trying** [7] 4/3 9/15 20/15 22/18 24/21 37/3 49/1  
**Tuesday** [8] 5/17 5/21 7/23 40/24 52/24 53/2 53/5 53/7  
**turn** [4] 20/24 22/9 36/7 38/4  
**turned** [13] 15/9 18/3 18/4 22/6 22/8 36/2 38/7 38/8 39/5 39/6 41/14 41/15 50/12  
**turning** [3] 22/15 35/9 44/10  
**TV** [1] 14/20  
**two** [9] 5/17 5/21 21/19 22/11 32/7 32/25 33/2 37/23 45/5  
**type** [2] 7/6 8/17  
**typical** [1] 24/10

**U**  
**U.S** [4] 2/5 7/18 14/25 33/18  
**ultimately** [1] 4/25  
**unacceptable** [1] 15/12  
**unauthorized** [1] 17/6  
**unavailable** [3] 5/2 5/3 5/5  
**under** [6] 14/21 17/9 35/16 40/12 47/4 48/5  
**understand** [14] 8/2 12/9 12/25 13/17 15/15 16/24 24/21 30/22 31/1 35/10 35/19 40/4 50/12 52/20  
**understanding** [4] 6/6 12/23 13/9 41/18  
**understood** [5] 5/4 15/21 44/5 44/6 54/7  
**undisputed** [1] 38/19  
**UNITED** [7] 1/1 1/12 6/12 21/13 29/9 33/20 38/25  
**unless** [1] 27/6  
**unsecured** [1] 32/21  
**unsworn** [3] 15/8 18/15 19/1  
**until** [7] 3/3 4/15 5/9 10/14 44/8 49/17 50/1  
**up** [18] 4/6 7/13 8/18 14/23 14/24 16/8 16/11 19/24 20/10 24/15 27/2 27/25 28/8 28/15 37/20 39/2 50/7 53/1  
**upon** [2] 5/15 43/15  
**us** [11] 17/25 19/7 19/10 19/16 23/23 29/12 36/6 40/22 45/6 46/20 53/2  
**used** [2] 16/17 17/3  
**using** [1] 16/23  
**utilized** [1] 12/1

**V**  
**vacate** [1] 42/15  
**vacatur** [1] 44/7  
**Van** [1] 33/19  
**various** [1] 32/9  
**veracity** [1] 31/12  
**verge** [1] 27/23  
**verification** [2] 23/14 23/18  
**verified** [4] 22/19 23/4 23/5 23/16  
**versus** [2] 3/4 33/19  
**very** [10] 3/24 6/20 8/17 8/21 12/23 16/12 18/2 28/14 32/11 47/24  
**victimized** [1] 46/11

**videos** [1] 10/3  
**viewed** [1] 20/25  
**violated** [1] 43/15  
**violating** [3] 29/4 29/5 29/7  
**violation** [4] 13/13 13/17 14/9 17/4  
**VOTE** [7] 1/6 3/4 3/17 6/22 20/20 32/19 49/13  
**Vote's** [1] 32/23  
**vouch** [1] 23/7  
**VS** [1] 1/5

**W**  
**waiting** [5] 8/3 16/10 24/25 53/20 54/5  
**waived** [1] 45/1  
**walk** [4] 23/8 23/8 33/13 33/15  
**walked** [1] 33/10  
**want** [42] 10/24 10/25 14/1 18/1 19/20 20/7 20/8 20/8 20/14 23/10 23/21 23/24 26/17 26/19 28/13 28/17 28/19 28/22 28/22 28/23 29/4 29/6 29/8 29/9 29/15 29/18 30/13 34/17 36/4 36/5 36/24 36/25 39/7 41/1 42/21 43/11 45/3 48/21 49/25 51/23 51/24 54/6  
**wanted** [8] 14/11 27/16 42/8 42/10 43/19 44/3 45/25 52/22  
**wanting** [1] 13/1  
**wants** [1] 52/6  
**warrant** [3] 11/15 12/16 12/17  
**was** [99]  
**wasn't** [8] 9/19 17/6 18/21 28/2 44/10 44/15 46/9 46/12  
**way** [12] 12/5 12/11 24/23 25/3 26/14 26/20 26/22 35/15 38/12 49/23 52/18 54/2  
**ways** [1] 13/16  
**we** [107]  
**we're** [2] 9/15 38/1  
**website** [3] 17/6 32/8 32/12  
**Wedge** [1] 1/18  
**week** [1] 8/10  
**well** [23] 4/8 7/1 13/3 16/12 16/16 22/13 24/21 25/1 29/20 30/11 31/19 33/24 34/6 35/14 37/19 37/24 38/15 40/5 41/20 42/17 44/1 47/9 50/6  
**went** [1] 11/15  
**were** [30] 4/25 5/2 5/3 5/5 7/17 9/10 10/4 10/20 11/21 13/8 13/10 14/15 14/24 15/21 16/22 18/17 18/22 21/6 25/24 31/4 32/7 32/25 33/1 39/16 39/20 43/19 43/21 45/23 45/24 49/8  
**weren't** [2] 45/13 49/8  
**what** [90]  
**what's** [4] 4/4 7/19 9/12 36/18  
**whatever** [9] 25/2 31/1 35/8 36/11 36/14 39/3 39/3 40/11 53/5  
**whatsoever** [1] 32/23  
**when** [20] 6/15 8/7 9/9 10/1 14/1 15/25 17/20 21/16 21/20 22/7 31/3 32/7 35/5 36/9 40/14 40/15 43/14 45/11 51/19 52/23  
**where** [19] 4/2 4/17 6/4 11/11 12/11 12/12 12/14 12/17 14/15 17/20 24/22 26/5 32/4 34/6 34/16 35/5 38/6 40/5 45/25  
**wherever** [2] 6/18 40/15  
**whether** [15] 11/7 28/19 30/12 30/14 35/1 36/24 36/25 38/9 38/11 40/17

40/19 43/9 51/23 52/18 53/18  
**which** [18] 5/11 6/10 7/7 7/17 12/5 12/10 16/13 18/11 22/4 26/11 26/12 28/8 33/20 39/19 45/16 46/3 52/18 53/22  
**while** [1] 8/2  
**who** [49] 3/6 3/13 3/20 5/23 9/16 10/7 11/24 11/25 12/25 13/1 13/3 14/11 14/12 16/2 17/14 17/24 18/1 20/3 20/19 22/5 22/6 23/15 24/1 24/2 24/14 34/1 34/19 34/21 34/24 35/5 35/6 35/7 35/22 36/5 36/8 38/8 38/18 45/22 46/11 47/6 47/8 48/24 49/6 49/6 49/12 49/16 49/18 49/19 49/19  
**whoever** [5] 16/5 16/21 28/22 38/24 40/18  
**whole** [1] 39/19  
**whom** [4] 17/21 31/3 35/5 47/10  
**whose** [2] 16/5 29/6  
**why** [15] 16/7 18/21 19/12 19/25 23/20 30/20 40/5 43/23 44/11 45/5 47/9 47/13 47/19 48/2 51/22  
**will** [21] 10/23 10/23 17/25 19/16 27/3 28/9 33/12 33/14 41/3 45/8 45/21 46/17 47/21 51/12 51/22 52/23 53/7 53/17 53/21 54/2 54/5  
**win** [1] 41/3  
**withheld** [1] 25/2  
**without** [5] 7/19 9/22 10/24 29/12 45/6  
**witness** [1] 43/25  
**witnesses** [5] 5/2 5/3 41/21 43/19 44/3  
**won** [1] 9/9  
**won't** [6] 19/14 19/14 19/18 28/13 35/8 44/22  
**word** [1] 42/8  
**worded** [1] 9/8  
**words** [7] 11/20 14/17 15/1 23/8 44/20 44/25 46/14  
**work** [3] 49/10 49/12 49/13  
**worker** [6] 6/7 6/10 7/6 8/17 8/17 9/17  
**workers** [2] 15/1 32/20  
**works** [1] 7/22  
**world** [2] 29/12 32/24  
**worth** [1] 49/9  
**worthy** [4] 23/12 48/7 48/8 49/11  
**would** [58]  
**wouldn't** [1] 47/13  
**wrecked** [2] 47/24 47/24  
**wrong** [3] 38/16 43/9 49/19  
**wrongful** [1] 8/14  
**wrongfully** [1] 5/25  
**wrote** [1] 16/23  
**Wuhan** [1] 32/21

**Y**  
**Y-U** [1] 28/25  
**yard** [1] 28/13  
**Yeah** [2] 49/21 51/7  
**year** [1] 21/19  
**years** [5] 21/19 26/24 48/25 49/17 49/17  
**yes** [29] 3/23 8/11 10/10 11/14 12/15 13/15 14/6 16/4 16/20 17/23 19/23 21/22 22/10 22/16 23/3 25/12 25/14 25/16 25/22 29/1 32/3 32/14 36/18 42/7 46/25 51/16 51/18 52/4 53/13  
**yesterday** [2] 39/9 42/16



**Y****yet [1]** 34/9**you [223]****you'll [1]** 45/3**you're [1]** 10/9**your [110]****yours [1]** 35/12**Yu [19]** 5/23 6/4 6/12 6/21 7/4 7/11

7/20 8/14 8/18 8/19 8/24 9/2 9/11 9/19

11/15 28/25 29/4 29/25 45/18

**Yu's [4]** 10/3 10/11 11/16 39/18