

**BEFORE THE ILLINOIS STATE BOARD OF ELECTIONS
SITTING *EX-OFFICIO* AS THE STATE OFFICERS ELECTORAL BOARD**

STEVEN DANIEL ANDERSON, CHARLES J.)	
HOLLEY, JACK L. HICKMAN, RALPH E.)	
CINTRON, AND DARRYL P. BAKER,)	No. 24 SOEB GP 517
)	
Petitioners-Objectors,)	
)	
v.)	
)	
DONALD J. TRUMP,)	Hearing Officer Clark Erickson
)	
Respondent-Candidate.)	

OPPOSITION TO OBJECTORS' MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

The Board need not consider Objectors' motion for summary judgment because it should dismiss the Objection for the legal reasons explained in President Trump's separately filed motion to dismiss. We will not repeat those arguments here. But those arguments establish that, regardless of whether Objectors can or cannot prove what they have pleaded, the Objection is meritless as a matter of law and should be dismissed.

Nonetheless, if the Board considers the merits of Objectors' summary-judgment motion, it should be denied. Objectors' contention that there are no genuinely disputed facts in this case is incorrect. President Trump adamantly disputes and denies that he intended, planned, called for, or supported any crimes or violence at the U.S. Capitol on January 6, 2021, let alone an "insurrection." Far from having undisputed evidence on those points, Objectors have little evidence that is admissible and none that is undisputed. Instead, Objectors ask the Board to construe the factual record and draw inferences in their favor, which is contrary to the most basic principles governing summary judgment. Indeed, Objectors themselves rely almost entirely on decisions made *after trial* or an evidentiary hearing. Even by Objectors' own standards, then, summary judgment is not warranted and should be denied.

I. Summary Judgment Must Be Denied Because The Objections Rest On A Host Of Disputed Facts.

"Summary judgment should be granted only where the pleadings, depositions, admissions and affidavits on file, *when viewed in the light most favorable to the nonmoving party*, show that there is no genuine issue as to any material fact and that the moving party is clearly entitled to judgment as a matter of law." *Sun-Times v. Cook Cnty. Health & Hosps. Sys.*, 2022 IL 127519, ¶ 24A (cleaned up; emphasis added). A tribunal considering a summary judgment motion "must construe the record strictly against the movant and liberally in favor of the nonmovant." *Givens v.*

City of Chicago, 2023 IL 127837, ¶ 46, *reh'g denied* (Nov. 27, 2023). Therefore, "[w]here a reasonable person could draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact, summary judgment should be denied." *Beaman v. Freesmeyer*, 2021 IL 125617, ¶ 72

Here, Objectors are asking the Board to ignore the standard for summary judgment. Objectors' fundamental factual argument—that the sitting President of the United States purposely ordered an armed mob to take over the United States Capitol and shut down a meeting of Congress—depends entirely on partisan inferences based on evidence that is largely inadmissible. In fact, President Trump's central action on January 6, his speech at the Ellipse, expressly directed the gathered crowd to act "peacefully" and contemplated that Congress would complete its vote on election certification, yet Objectors construe even those facts as a call for insurrection. Far from relying on undisputed evidence, Objectors' central factual claim is that the President's actual intentions were the opposite of the words he used in the speech: that his instruction for the crowd to act "peacefully" was insincere, and that his obvious metaphors such as "fighting like a boxer with one hand behind his back" were not actually metaphors. It is hard to imagine a clearer example of a movant improperly drawing inferences from summary judgment evidence. It would be contrary to grant summary judgment based on such disputed evidence construed in Objectors' favor.

In fact, Objectors cite no tribunal anywhere that has done so—even Objectors' own precedents are decisions rendered after a trial or evidentiary hearing. To be clear, President Trump's position is that those decisions are wrong on their own terms, both for reasons explained herein and for others. But even those tribunals recognized that the events of January 6, 2021 involve disputes of fact that could not be resolved on a summary judgment record and proceeded to an adversarial proceeding.

A. Objectors Rely on a Long List of Disputed Facts.

President Trump’s motion to dismiss explains the several reasons why Section Three of the Fourteenth Amendment does not apply here, and why the Board in any event lacks the statutory authority to resolve objections based on the Fourteenth Amendment. But even setting those matters aside, Objectors’ claim under Section Three would require them to prove that (i) events occurring on January 6, 2021, amounted to an “insurrection,” and (ii) President Trump “engaged in” those events. The parties dispute the meanings of both of those terms, and President Trump discusses those disputes as well in his other briefing. Here, suffice it to say that Objectors’ arguments that these elements have been satisfied—even under their own definitions, let alone under President Trump’s—depend on a long list of contested and disputed factual inferences. We will list just the main ones here:

Disputed Fact 1: The sincerity of President Trump’s Ellipse speech.

Objectors acknowledge that President Trump’s speech to the crowd on January 6 expressly told them to “march[] over to the Capitol building to peacefully and patriotically make your voices heard.” (Br. at 21.) They also acknowledge that President Trump’s speech used obvious figurative language, such as stating that Republicans fight like a “boxer with his hands tied behind his back.” (Br. at 50.) Objectors contend, however, that President Trump’s express request for peaceful conduct was insincere, and that he secretly meant for his figures of speech to be taken literally. Objectors add that when President Trump asked his supporters to march “peacefully” to the Capitol, the supporters interpreted this “as a call for a violent invasion.”

Objectors’ requested inference in their favor: Objectors offer no direct evidence that President Trump did not mean what he said. Their expert witness on sociology states that he “is not addressing that issue” of President Trump’s intentions, because he is “not in President Trump’s

mind.” (Simi Tr. at 205.) Objectors nevertheless ask the Court to infer that President Trump’s communications must have been a form of code, rather than plain English, apparently based on President Trump’s general conduct after the election and on January 6. In its simplest form, Objectors’ argument—and their purported expert’s testimony—is that (1) people who support violence and crimes usually are reluctant to speak expressly about it in public, (2) President Trump’s speech did not call for violence or crimes, but (3) some of the crowd subsequently committed violence or crimes, so therefore (4) President Trump’s must have supported violence or crimes. One does not have to be master of logic to see the problem. (*See* Simi Tr. at 50-52, 101-02, 126-28.)

President Trump’s evidence in dispute: *See, e.g.,* Summary of Material Disputed Facts (attached as Exhibit A) (response to factual assertion nos. 3, 42.)

Disputed Fact 2: President Trump’s overall intent.

Objectors allege that President “Trump intended that his speech would result in the use of violence” (Br. at 32), insinuate that President Trump intended for “his supporters” to shut down Congress, *see* Br. at 14 (“Trump formed and conveyed to allies a plan to order his supporters to march to the Capitol at the end of his speech in order to stop the certification of electoral votes.”), and assert that President Trump “had control of the January 6th attackers” when some of them broke into the Capitol and committed crimes and violence. (Br. at 38.)

Objectors’ requested inference in their favor: Objectors have no statement from the President, no document, and no testimony from anyone, stating that he planned, directed, or intended violence at the Capitol (or anywhere). Instead, Objectors appear to ask the Board to *infer* this from the facts that President Trump had argued that Congress should not certify the electoral votes presented to it, that President Trump asked the crowd to protest at the Capitol “peacefully”

while Congress was considering those votes, and that the crowd ultimately started a riot that delayed Congress' certification of the votes. Similarly, in support of Objectors' inference that the President was in "control" of everything that happened on January 6th, they cite only the President's agreement with a reporter's assertion that the January 6th rioters "listen to" him "like no one else." (*See* Br. at 30 & n.24 (citing CNN Townhall).)

President Trump's evidence in dispute: *See, e.g.*, Exhibit A (response to factual assertion nos. 13, 48.)

Disputed Fact 3: President Trump's alleged knowledge of plans for violence.

Objectors contend that President "Trump was aware of his supporters' plans to commit violent acts at the Capitol on January 6 in connection with the certification of electoral votes," (Br. at 50), and that President "Trump was personally informed of ... plans for violent action" on January 6. (Br at 17.)

Objectors' requested inference in their favor: Objectors present no documents purporting to communicate to the President any plans for violence at the Capitol, no statement from President Trump that he was aware of any such plans, and no testimony from anyone that they told him of any such plans. In fact, Objectors present no evidence that *anyone* in the government was aware of plans for violence that were directed specifically at the Capitol. Instead, Objectors ask the Board to *infer* President Trump's awareness of such plans, apparently from a triple-hearsay statement that an aide "told the President" *something*—what exactly Objectors do not know—about "weapons at the rally on the morning of January 6th."¹

President Trump's evidence in dispute: *See, e.g.*, Exhibit A (response to factual assertion nos. 38-39.)

¹ *See* Jan. 6th Report at 67 (cited by Objectors' Br. at 17.)

Disputed Fact 4: President Trump’s conduct toward public officials.

Objectors contend that President Trump tried “to coerce public officials to assist” in his contesting the election results. (Br. at 8.)

Objectors’ requested inference in their favor: The only acts of “coercion” that Objectors point to are hearsay about instructions by the President to his subordinates about matters within their job responsibilities, and that the President considered whether (but evidently decided not) to fire officials who refused such instructions. (Br. at 9.) From this, and from the fact that President Trump tried to persuade others to act in accordance with his views about the election results, Objectors apparently ask the Board to infer that there were more nefarious, but unidentified, acts of “coercion.”

President Trump’s evidence in dispute: *See, e.g.*, Exhibit A (response to factual assertion nos. 17, 19, 22, 24.)

Disputed Fact 5: President Trump’s understanding of the election result. Objectors maintain that President Trump knew that he had really lost the election, and his claims to the contrary were lies. *See* Br. at 11 (“Trump continued to publicly lie, maintaining that the 2020 presidential election results were illegitimate due to fraud.”), 49 (Trump’s assertions of voter fraud and Vice President Pence’s authority were “known lies”).

Objectors’ requested inference in their favor: Objectors point to no admission by President Trump on this point, and no action by President Trump even suggesting that he believed the announced election results was correct. Instead, Objectors ask the Board to *infer* the President’s state of mind from the fact that other people told him they disagreed with him on this point, and the fact that his arguments ultimately were unsuccessful.

President Trump’s evidence in dispute: *See, e.g.,* Exhibit A (response to factual assertion no. 11.)

Disputed Fact 6: President Trump’s alleged relationship with “extremist groups.”

Objectors contend that President “Trump aligned himself with militarized extremist groups, including white supremacist organizations, and asked them to be prepared to act on his behalf.” (Br. at 49; *see id.* at 5.)

Objectors’ requested inference in their favor: Objectors present no evidence of President Trump ever writing or saying words that, by their terms, identify himself with any militarized group, or request that any such group do anything on his behalf. Instead, the quoted statement is Objectors’ attempted inferential leap from the following exchange at a televised Presidential debate:

WALLACE: Okay, you have repeatedly criticized the Vice President for not specifically calling out antifa and other left-wing—

TRUMP: That’s right—

WALLACE: —extremist groups. But are you willing, tonight, to condemn white supremacists and militia groups?

TRUMP: Sure.

WALLACE: And to say that they need to stand down and not add to the violence in a number of these cities, as we saw in Kenosha, and as we’re seeing in Portland?

TRUMP: Sure, I’m willing to do that, but—

WALLACE: Are you prepared specifically to do that?

BIDEN: Then do it.

WALLACE: Well, go ahead sir.

TRUMP. I would say—I would say, almost everything I see is from the left-wing, not from the right wing. If you look—

WALLACE: So what do you, what do you, what are you saying—

TRUMP: I’m willing to do anything. I want to see peace.

WALLACE: Well, then do it, sir.

BIDEN: Say it, do it, say it.

TRUMP: Do you want to call them—what do you want to call them? Give me a name. Give me a name.

WALLACE: White supremacists and white—

TRUMP: Give me a name, go ahead, what—who would you like me to condemn? Who?

BIDEN: White supremacists. The Proud Boys. The Proud Boys.

WALLACE: White supremacists and right-wing militia.

TRUMP: Proud Boys, stand back and stand by. But I'll tell you what, I'll tell you what, somebody's got to do something about antifa and the left because this is not a right-wing problem—²

President Trump's evidence in dispute: *See, e.g.,* Exhibit A (response to factual assertion nos. 3, 30, 32.)

Disputed Fact 7: Whether the January 6 rioters had a broader revolutionary plan.

Objectors claim that the rioters' actions on January 6 "were ... aimed at impeding the peaceful transfer of power to the incoming president." (Br. at 44.)

Objectors' requested inference in their favor: Objectors have presented no evidence—and not even any argument—that the rioters had any sort of plan (let alone a common plan) for how breaking into the Capitol would somehow give them the ability to determine who the next President would be. Nor have Objectors even identified what any possible plan of that kind could have been. Instead, they apparently ask the Board to *infer* the existence of some unspecified plan of that sort from the facts that the rioters were angry about Congress' impending action, and rioted in a way that disrupted and delayed that action.

President Trump's evidence in dispute: *See, e.g.,* Exhibit A (response to factual assertion nos. 34-35.)

Disputed Fact 8: The scale and scope of the January 6 riot.

Objectors assert that the January 6 riot "was larger, more coordinated, and more violent than" the Whiskey Rebellion, or other historical insurrections that Objectors do not name or identify. (Br. at 42.)

² https://www.youtube.com/watch?v=qIHhB1ZMV_o

Objectors’ requested inference in their favor: Objectors have offered little or no proof of the comparative numbers of participants in, duration of, or levels of coordination or violence involved in the January 6 riot and the Whiskey Rebellion, let alone any other insurrection.

President Trump’s evidence in dispute: The historical record indicates that the Whiskey Rebellion involved thousands of armed rebels, lasted for months, and included a movement for independence symbolized by a new six-striped flag. AMERICAN BATTLEFIELD TRUST, <https://www.battlefields.org/learn/articles/whiskey-rebellion> (last visited Jan. 22, 2024); Thomas P. Slaughter, THE WHISKEY REBELLION 197 (Oxford University Press, 1986); *see also* Donna Brearcliff, *The Whiskey Rebellion*, THE LIBRARY OF CONGRESS (last updated Jan. 2021) <https://guides.loc.gov/this-month-in-business-history/august/whiskey-rebellion>. The government response included an official declaration by a Supreme Court Justice that western Pennsylvania was in a state of rebellion, a military draft, and field command by President Washington himself (at least for a time) of an army of 13,000 soldiers—as large or larger than Washington’s armies in the Revolution. Thomas P. Slaughter, THE WHISKEY REBELLION 196, 206, 210-11, 215 (Oxford University Press, 1986). Finally, the unrest occurred in Pennsylvania, Ohio, Virginia, and Kentucky and was intense enough that rebels were able to “reign over” a town, leaving local officials powerless to resist. *Id.* at 206, 210. And as shown by the Colorado trial exhibits and additional affidavits, *see Section III, infra*, Objectors’ assertions that January 6 can only be viewed as a premeditated, violent insurrection is disputed and cannot be accepted on a motion for summary judgment.

B. Objectors' Own Arguments Show Summary Judgment Is Unwarranted.

It should be self-evident that these disputes cannot be resolved at summary judgment. If further confirmation were needed, however, it can be found in the fact that the only two precedents Objectors rely on were decisions made *after* a trial or evidentiary hearing.

Objectors ask this Board to follow “[t]he two states that have addressed the merits of the issues” they seek to present, “Colorado and Maine.” (Br. at 36.) They contend that these two states made their decisions “following the presentation of evidence with the opportunity for cross-examination.” (*Id.*) And indeed, neither of those proceedings involved a grant of summary judgment like Objectors are seeking now. The Colorado case involved “extensive prehearing motions;” “three substantive rulings on these motions;” a trial that “took place over five days and included opening and closing statements, the direct- and cross-examination of fifteen witnesses, and the presentation of ninety-six exhibits;” and a “102-page order” resolving the parties’ factual disputes. *Anderson v. Griswold*, 2023 CO 63, ¶ 84, *cert. granted sub nom. Trump v. Anderson*, No. 23-719, 2024 WL 61814 (U.S. Jan. 5, 2024). Similarly, the Maine decision on which Objectors rely involved “the opportunity to present evidence; to call witnesses; to cross-examine, and to argue at length both the legal and factual issues.” (Op. at 17.) Even then, multiple Justices of the Colorado Supreme Court, including the Chief Justice, dissented on the ground that even these proceedings were so defective that they denied President Trump due process of law. *Anderson*, 2023 CO 63, ¶¶ 269 (Boatwright, C.J. dissenting); 273 *et seq.* (Samour, J., dissenting).

Of course, President Trump does not agree with the outcomes of these cases. At his request, the U.S. Supreme Court has accepted review of the Colorado decision. *Trump v. Anderson*, 2024 WL 61814 (U.S. Jan. 5, 2024). President Trump also does not agree that the Colorado proceedings (which, among other defects, offered no opportunity for pretrial discovery) satisfied the

requirements of the Due Process Clause. But the point here is that even these tribunals—the ones Objectors say the Board should follow—*did not grant summary judgment*, but proceeded to trial or an evidentiary hearing. Here, if the Board does not dismiss the Objection pursuant to President Trump’s motion, it must at minimum follow that same procedural path.

In fact, Objectors offer no real argument to the contrary. They suggest that they can simply transplant the transcripts of the Colorado proceedings to this case, and then rely on the Colorado court’s verdict to argue that the Board should reach the same factual conclusions on summary judgment here. (Br. at 36-37.) But Objectors offer no argument or authority suggesting that this is proper. As a matter of logic, one tribunal’s post-trial resolution of factual disputes cannot support a later tribunal’s conclusion at summary judgment that there are no factual disputes to be resolved.³ And as a matter of authority, Objectors cite only a decision holding that *legal conclusions* by out-of-state courts can be persuasive precedent. *See Kostal v. Pinkus Dermatopathology Lab., P.C.*, 357 Ill. App. 3d 381, 396–97 (2005) (applying precedent for the proposition that personal jurisdiction is established when a defendant provides a medical diagnosis remotely to a patient located in the forum state). Objectors cite nothing suggesting that the *factual findings* of other tribunals are entitled to any kind of precedential deference from the Board—let alone that the Board can call off an evidentiary hearing entirely by simply substituting out-of-state factual findings for its own.

³ To be sure, factual findings from prior proceedings can be made binding in the limited circumstances where collateral estoppel applies. But Objectors have not tried to argue that those circumstances are present here. And indeed, even the Maine Secretary of State did not rely on any estoppel effect of the Colorado ruling, but instead purported to conduct her own review of the evidence and make her own factual findings.

For these reasons, Objectors’ own authorities show that their motion for summary judgment must be denied.

Finally, the Board should note that neither the Colorado nor the Main ruling actually removed President Trump’s name from those states’ primary ballots. The Colorado Supreme Court specifically ordered that “the Secretary will continue to be required to include President Trump’s name on the 2024 presidential primary ballot, until the receipt of any order or mandate from the Supreme Court.” *Anderson*, 2023 CO 63, ¶ 7.⁴ Similarly, the Main Secretary of State “suspend[ed] the effect of my decision until the [Maine] Superior Court rules” on it (at 33)—and then consented to suspend Superior Court proceedings until after the U.S. Supreme Court’s decision.

The result is that, if the Board were to enter an immediately effective order that President Trump’s name be removed from the ballot, it would be the only tribunal anywhere in the country to take that step—and Illinois likely would become the only state in the Union in which President Trump’s name would not appear on the primary ballot. There is no warrant for taking that step, and there *certainly* is no warrant for taking it at the summary judgment stage. Far from supporting Objectors’ arguments, the Colorado and Maine decisions confirm that reality.

II. Much of the Objectors’ Evidence Is Inadmissible.

For the reasons described above, the evidence proffered by Objectors could not support summary judgment even if the Board were to consider it. But on top of that, the Board should *not* consider the evidence because much of it is plainly inadmissible.

Rule 191(a) requires that summary judgment evidence must “consist of . . . facts admissible in evidence.” Thus, “[e]vidence that would be inadmissible at trial is not admissible in support of

⁴ As the U.S. Supreme Court has set the case for argument on February 8, *Trump*, 2024 WL 61814, and Colorado’s primary election occurs on March 5—so as a practical matter, it is highly likely that the Colorado primary ballots will include President Trump’s name.

or in opposition to a motion for summary judgment.” *Ory v. City of Naperville*, 2023 IL App (3d) 220105, ¶ 19.

Objectors, however, rely on substantial evidence that is inadmissible and should not be considered. Attached hereto as Exhibit A is a summary of facts Objectors assert that are based on inadmissible evidence, and are disputed. For a multitude of reasons, for example, the partisan and biased January 6th Report on which Objectors so heavily rely is unreliable and speculative, continues multiple levels of hearsay, and was created after a so-called “investigation” to which President Trump was not a party and he had no opportunity to cross-examine any of the witnesses who testified before the January 6th Committee. (*See e.g.*, Exhibit A (response to factual assertion #1)).⁵ Moreover, Objectors rely heavily on the testimony of an expert the Colorado objectors retained and called at trial, who claims President Trump orchestrated (via coded communications) the most violent aspects of January 6. But this tribunal has not provided for experts, Objectors never disclosed Mr. Simi’s opinions and bases therefor and President Trump has never had the opportunity to offer a rebuttal expert. (*Id.*) Introducing expert testimony without notice and an opportunity to respond is contrary to Illinois rules and procedures and basic notions of due process. Inadmissible evidence, in short, cannot normally be considered on summary judgment and there is no reason to depart from that practice here.

⁵ Except for five exhibits that were admitted in Colorado (P21, P92, P94, P109, and P166), as to which the Candidate is asserting an authenticity objection, the parties have agreed not to dispute the authenticity of trial exhibits admitted in the Colorado Action, but have preserved all other objections to those trial exhibits. Similarly, the parties have agreed that testimony from the Colorado Action constitutes “former testimony” for purposes of Ill. R. Evid. 804(b)(1), but have preserved all other objections to the Colorado trial testimony

III. The Candidates' Exhibits from the Colorado Trial and Additional Affidavits the Candidate Has Secured Demonstrate Disputed, Material Facts.

In response to the Objector's exhibits, the Candidate provides the trial exhibits he offered that were admitted by the Colorado court. These include Exhibit Nos. 1000-1009, 1011-1020, 1022-1023, 1025, 1027-1028, 1031, 1045-1048, 1054, 1059, 1066, 1074, and 1080-1083. (*See* Exhibit B (index to Candidate's Colorado trial exhibits); *see also* link to shared folder included in 1/23/2024 email transmitting this response.) In addition, the Candidate has secured two additional affidavits, copies of which are attached hereto. (*See* 1/23/2024 T. Evans Affidavit (with link to videos affiant took at the Ellipse and in the U.S Capital building on January 6, 2021) (attached as Exhibit C); 1/23/2024 C. Burgard Affidavit (attached as Exhibit D).) These Colorado trial exhibits and additional affidavits (including the video evidence admitted in Colorado and the new videos referenced in and authenticated by the affiants) show the events of January 6, 2021, in a light that is at odds with Objectors' characterization of events, including by showing non-violent protesters, none of whom were armed, who marched to the Capital, discouraged talk of violence or destruction of property, and peacefully complied with requests by Capital Police officers to leave the Capital building.

IV. The Candidate's Rule 191(B) Affidavit Details Testimony Concerning Material Facts that the Candidate Cannot Procure Under The Circumstances.

Finally, Objectors' motion should be denied because President Trump has not had opportunity to develop evidence regarding material facts.

Although parties are free to move for summary judgment at any time, *see* 735 ILCS 5/2-1005, Illinois Supreme Court Rule 191(b) protects non-moving parties against premature motions for summary judgment:

(b) When Material Facts Are Not Obtainable by Affidavit. If the affidavit of either party contains a statement that any of the material facts which ought to appear

in the affidavit are known only to persons whose affidavits affiant is unable to procure by reason of hostility or otherwise, naming the persons and showing why their affidavits cannot be procured and what affiant believes they would testify to if sworn, with his reasons for his belief, the court may make any order that may be just, either granting or refusing the motion, or granting a continuance to permit affidavits to be obtained, or for submitting interrogatories to or taking the depositions of any of the persons so named, or for producing documents in the possession of those persons or furnishing sworn copies thereof. The interrogatories and sworn answers thereto, depositions so taken, and sworn copies of documents so furnished, shall be considered with the affidavits in passing upon the motion.

Ill. S. Ct. R. 191(b).

Concurrent with this response, the Candidate has provided a Rule 191(b) affidavit that complies with the express terms of the rule. (*See* 1/23/2024 D. Warrington Affidavit (“R. 191(b) Aff.”) (attached as Exhibit E).) **First**, the affidavit identifies the witnesses whose testimony the Candidate seeks, but has not been able to procure because of the nature of the objection proceedings before the Electoral Board and other factors. (R. 191(b) Aff. ¶¶ 3, 6.) **Second**, the affidavit indicates why testimony cannot presently be procured from these witnesses, including because President Trump has not been permitted to conduct discovery in any proceedings challenging his nominating papers, including in Colorado, Maine or Illinois. (R. 191(b) Aff. ¶¶ 3, 6, 9.) **Third**, the affidavit indicates what the Candidate believes these witnesses would say if they were to testify via affidavit or deposition. (R. 191(b) Aff. ¶ 6.) Specifically, the testimony the Candidate cannot presently obtain would establish the material facts, including concerning precautions the Trump Administration took before the events of January 6, the lack of weapons observed or detected on January 6, and President Trump’s authorization of National Guard troops as the day progressed, an offer D.C. Mayor Muriel Bowser and higher ups at the U.S. Capital Police Department refused, which would demonstrate the existence of material factual disputes and require denial of Objectors’ motion for summary judgment. (R. 191(b) Aff. ¶ 6.) **Fourth**, the affidavit demonstrates the bases for the Candidate and Campaign’s beliefs, including because they are consistent with the

Candidate's staff and counsel's recollection of the events before and on January 6, 2021, including discussions had with the identified witnesses, and are consistent with documents, video, and other materials President Trump's counsel and staff have gathered concerning the events at issue. (R. 191(b) Aff. ¶ 8.)

Given the complicated nature of these events, the volume of documents, video and other material on which Objectors rely, President Trump's affidavit demonstrates the unfairness of resolving Petitioners' Objections as part of an expedited and abbreviated proceeding that attempts to determine the nature and significance of the events of January 6, 2021 without first providing the Candidate with a full and fair opportunity to conduct discovery and subpoena and depose witnesses, including by securing testimony (via affidavits or deposition) from the witnesses identified.

In similar circumstances, Illinois courts do not hesitate to permit the non-movant to complete relevant discovery before considering and ruling upon a motion for summary judgment. *See, e.g., Jiotis v. Burr Ridge Park Dist.*, 2014 IL App (2d) 121293; *see also U.S. Bank, N.A. v. Kosterman*, 2015 IL App (1st) 133627 ¶¶ 12-18 (reversing summary judgment where trial court ignored Rule 191(b) affidavits and granted summary judgment without permitting the non-movant to complete relevant discovery). That is exactly what should happen here. *See* Ill. S. Ct. R. 191(b) (tribunal "may make any order that may be just, either granting or refusing the motion, or granting a continuance to permit affidavits to be obtained, or for submitting interrogatories to or taking the depositions of any of the persons so named, or for producing documents in the possession of those persons or furnishing sworn copies thereof").

CONCLUSION

For the reasons described herein, Objectors' motion should be denied.

Dated: January 23, 2024

Respectfully submitted,

CANDIDATE DONALD J. TRUMP

By: /s/ Adam P. Merrill
One of his attorneys

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**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
1	“During his campaign, Trump laid the foundation for the insurrection by repeatedly insisting that fraudulent voting activity would be the only possible reason for electoral defeat (rather than not receiving enough votes).”	Section II, p. 5	Fn. 3 (Aug. 17, 2020 C-SPAN video from WI; Aug. 2, 2020 WaPo video from RNC; Sept. 24, 2020 C-SPAN video of President Trump departing White House).	These videos show only that President Trump exercised his First Amendment rights to speak on matters of public concern (<i>i.e.</i> , election integrity). They cannot support the inference that he prepared or urged voters to engage in “insurrection,” four to five months before Jan. 6, 2021.	These videos of President Trump’s comments are irrelevant because they are temporally distant from the events of January 6, 2021, the day of alleged “insurrection.” The comments were about election integrity and on matters of public concern—and which were not incendiary—are protected by the First Amendment. These videos are incomplete, lack foundation not supported by testimony, are from sources unauthenticated by the record, and represent an improper attempt to offer character evidence.
2	“Trump did not hide his intentions: when asked during a September 23, 2020 press conference if he would commit to a peaceful transfer of power following the election, Trump refused to do so.”	Section II, pp. 5-6	Fn. 4 (Sept. 23, 2020 C-SPAN video of President Trump’s statements).	See Disputed Fact No. 1.	See Disputed Fact No. 1.
3	“Trump aligned himself with	Section II, p. 6	Fn. 5-7 (Sept. 29, 2020,	The “stand back and stand by” comment was	All of Simi’s testimony was based on President Trump’s protected speech and not

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	<p>extremist and white supremacist organizations and signaled they should be prepared to act on his behalf.”</p>		<p>Trump asked to disavow Proud Boys—supported by Simi affidavit or testimony from <i>Anderson</i> trial; “stand back, stand by” comments—Sept. 29, 2020 AP video from debate; Proud Boys took that statement as call to be ready—Simi affidavit or testimony from <i>Anderson</i> and Jan. 6th Report)</p>	<p>in direct response to the moderator’s demand that President Trump tell certain groups to “stand down.” Moreover, Trump’s reference to Proud Boys directly responded to Joe Biden’s demand that President Trump direct his remark to “Proud Boys.” Further, the entire exchange referred to then-recent unrest in cities like Kenosha, Wisconsin and Portland, Oregon. Further, the video clip is incomplete. Immediately before that exchange, President Trump expressly stated that his supporters “should not add to the violence in . . . these cities,” and he said that he would “do anything” in order “to see peace.”</p>	<p>any actions by President Trump. Simi admitted that all of the “patterns” of speech and behavior that he saw President Trump engage in are normal patterns of political speech. (TR. 10/31/2023, pp. 141:7-142:9). Simi further admitted that his testimony was limited to identifying the patterns in President Trump’s communication over time and how it was interpreted by far-right extremists. Importantly, Simi testified that whether President Trump’s intended to mobilize people to violence on January 6th was beyond the scope of his opinion. (TR. 10/31/2023, pp. 206:20-207:4). Simi did not consider First Amendment standards in evaluating President Trump’s speech. Additionally, the comments are irrelevant because they are temporally distant from the events of January 6, 2021, the day of alleged “insurrection.” Moreover, the videos lack foundation not supported by testimony and represent an improper attempt to offer character evidence. In addition to issues surrounding the formation and bias of the Select Committee, the Jan. 6th Report is inadmissible because it contains improper legal conclusions and speculation, and hearsay. The Report itself is</p>

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				<p>Immediately after the exchange, President Trump reiterated that violence was a “problem.” His “stand back” statement emphasized that his supporters were not the ones who should “do something” about the problem. The full exchange cannot plausibly be interpreted as an endorsement of those groups, let alone of their future actions in response to an election that had not yet happened.</p> <p>The very next day, September 30, President Trump emphasized to a reporter that although he was not familiar with the Proud Boys, “they have to stand down and let law enforcement do their work . . .</p>	<p>hearsay and each of the statements that it contains, quotes, and relies upon—the documents, the testimony, the transcribed interviews, and the like—is also inadmissible hearsay.</p> <p>Further, the Report is unreliable and untrustworthy as a product of a politically motivated and biased grandstanding exercise undertaken by congresspeople who had already predetermined President Trump’s guilt, did not have a minority report issued because no pro-Trump congresspeople were on the committee, and issued statements accordingly before beginning work on a committee staffed by inexperienced investigators who had never handled investigations involving violence. Indeed, the Report is so unreliable that almost none of the Report’s Eleven Recommendations, taking up a mere four pages out of over 800, have been adopted. Even the judge in <i>Anderson</i> announced in her Final Order that she only considered and cited 31 of the Report’s conclusions, even though the petitioners in that case originally sought to admit all 411 conclusions. Thus, even a tribunal predisposed to remove President Trump from the ballot did not find the vast</p>

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				[W]hoever they are, they have to stand down. Let law enforcement do their work.” The statement does not explicitly endorse actual violence, and President Trump used the exact words – “stand down” that the moderator asked him to use.	majority of conclusions to be reliable. President Trump, the party whose presence on the Illinois ballot is being challenged, was not a party to the Select Committee’s proceedings, had no lawyer or other representative to protect his interests, and had no opportunity to cross-examine the witnesses who testified, to introduce testimony or documents, or to question the accuracy or truth of the Report’s conclusions or any of the information that formed the basis for those conclusions. The Select Committee has been widely recognized as a political show trial or partisan political star chamber.
4	Fifty-eight of those elections were followed by peaceful processes implementing the results of the elections, even when those elections were sometimes bitterly and hotly contested.	Section II, p. 6	None.	Objectors fail to cite evidence supporting this factual statement and omit facts showing that Democrats disputed the results of previous presidential elections thereby obstructing the transition of power.	Unsupported statement.

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5	“[M]edia outlets projected that Biden was in the lead.”	Section II, p. 6.	Fn. 8 (Nov. 5, 2020 CNN Election 2020 Presidential results)	Media outlets projecting that Biden was in the lead are irrelevant hearsay. Opinions from media outlets did not establish that President Biden would win the election or that the election was problem free.	This is hearsay, is irrelevant to the determination of whether the events of Jan. 6, 2021, constituted an insurrection, lacks foundation not supported by testimony, is from sources unauthenticated by the record, is an improper attempt to get testimony not subject to cross-examination into the record, and represents an improper attempt to offer character evidence.
6	“Trump alleged on Twitter that widespread voter fraud had compromised the validity of such results.”	Section II, p. 6	Fn. 9 (President Trump’s Nov. 4, 2020 tweet and two Nov. 5 tweets, all part of Group Exhibit 7/also referred to as “Trump Tweet Compilation”).	These tweets are protected speech, advocating a public policy opinion. They did not advocate violence or urge people to engage in insurrection.	Statements in referenced tweets that President Trump made about election integrity and on matters of public concern—and which were not incendiary—are protected by the First Amendment. Additionally, they are irrelevant because they are temporally distant from the events of January 6, 2021, the day of the alleged “insurrection.” Moreover, the tweets represent an improper attempt to offer character evidence.
7	“[O]n November 7, 2020, news organizations all across the country declared that Joseph Biden won . . .”	Section II, p. 7	Fn. 10 (Nov. 7, 2020 CBS and NPR articles)	See Disputed Fact No. 5.	See Disputed Fact No. 5.

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8	“Trump falsely tweeted: ‘I WON THIS ELECTION, BY A LOT!’”	Section II, p. 7	Fn. 11 (Trump Nov. 7, 2020 tweet from Tweet Compilation (Group Ex. 7) at 2)	See Disputed Fact No. 6.	See Disputed Fact No. 6.
9	“[A]ides and advisors close to Trump investigated his election fraud claims and repeatedly informed Trump that such allegations were unfounded.”	Section II.A., p. 7	Fn. 12 (January 6th Report, <i>supra</i> note 7, at 205-06 (Ex. 8) (reporting that lead data expert Matt Oczkowski informed Trump he did not have enough votes to win); <i>id.</i> at 374-76 (reporting that Attorney General William Barr informed Trump his	See Disputed Fact No. 3.	See Disputed Fact No. 3 (objections to January 6 th Report). The evidence also demonstrates multilevel hearsay: the January 6 th Report itself is hearsay and statements that anyone “informed” anyone else of anything is classic hearsay.

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			fraud claims lacked merit); <i>id.</i> at 204 (reporting campaign lawyer Alex Cannon told Trump Chief of Staff he had not found evidence of voter fraud sufficient to change results in key states).		
10	“And on December 1, 2020, Trump’s appointed Attorney General, William Barr, publicly declared that the U.S. Department of Justice found no evidence of voter fraud”	Section II.A., p. 7	Fn. 13 (Jan. 6 th Report at 377; June 28, 2022 AP Article.	That the Justice Department found no evidence of voter fraud to warrant a change in electoral results does not negate President Trump’s sincerely held belief that voter fraud had occurred resulting in his loss.	See Disputed Fact Nos. 3, 5, and 9.

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11	“Despite knowing the lack of evidence of voter fraud, Trump continued to refuse to accept his electoral loss.”	Section II.A., p. 7	None.	This statement claims to have knowledge about what President Trump knew when no evidence supports such claim.	Unsupported statement. Even Simi testified that he could not testify about Trump’s knowledge (TR. 10/31/2023, pp. 205:22-207:4).
12	“Some of Trump’s actions—e.g., lawsuits contesting election results—were meritless but not illegal to pursue”	Section II.A., p. 7	None.	This statement overarchingly calls all of President Trump’s election lawsuits “meritless,” when he sincerely believed they did have merit.	Unsupported statement. Wholly irrelevant to whether President Trump “engaged in insurrection.”
13	“But as it became clear that Trump’s lawful, nonviolent attempts to remain in power would fail, he turned to unlawful means to illegally prolong his stay in office.”	Section II.A., pp. 7-8.	None.	Unsupported statement making improper legal conclusions.	Unsupported statement making improper legal conclusions.
14	“During the weeks leading up to January 6, 2021, Trump oversaw, directed, and	Section II.A., p. 8	Fn. 14 (January 6th Report at 341-42 (Ex. 8)).	These are legal conclusions unsupported by any record evidence. No record evidence	Improper legal conclusion. See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.

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	<p>encouraged the commission of election fraud by means of a ‘fake elector’ scheme under which seven states that Trump lost would submit an ‘alternate’ slate of electors as a pretext for Vice President Pence to decline to certify the actual electoral vote on January 6.”</p>			<p>supports that President Trump “oversaw” an effort to obtain and transmit alternate slates of electors. Nor can Objectors establish that any potential alternate slate of electors was illegal. Representative Swalwell testified that “it was well-known among myself and my colleagues and the public that President Trump believed that Pence had the – that Vice President Pence had the ability to essentially reject the electoral ballots that were sent from the states.” TR [10/31/2023], p. 162:4-8. President Trump could not have believed that Vice President Pence could have rejected the ballots if he “had lost.” There is no</p>	

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				record evidence that any alternate slate of electors was “fake.”	
15	“In early December, Trump called the Chairwoman of the Republican National Committee, Ronna Romney McDaniel, to enlist the RNC’s support in gathering a slate of electors for Trump in states where President-elect Biden had won the election but legal challenges to the election results were underway.”	Section II.A., p. 8.	Fn. 15 (Jan. 6 th Report at 346).	See Disputed Fact Nos. 3, 9.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
16	“On December 14, 2020, at Trump’s direction, fraudulent electors convened sham proceedings in	Section II.A., p. 8.	Fn. 16 (Jan. 6 th Report at 341).	See Disputed Fact No. 14.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.

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	seven targeted states where President-elect Biden had won a majority of the votes (Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin) and cast fraudulent electoral ballots in favor of Trump.”				
17	“Between December 23, 2020, and early January 2021, Trump repeatedly attempted to speak with Rosen in an effort to enlist his support for the purported election fraud.”	Section II.A., p. 8.	Fn. 19 (Jan. 6 th Report at 383).	President Trump was not committing election fraud in “attempting to speak” to a person, nor by trying to determine what lawful options existed to object to the results.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
18	Rosen told Trump that “DOJ can’t and won’t snap its	Section II.A., p. 9.	Fn. 20 (Jan. 6 th Report at 386).	President Trump did not testify before the Select Committee nor did he	This is hearsay, and President Trump has had no opportunity to cross examine Rosen. See

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	fingers and change the outcome of the election,” Trump responded: “Just say the election was corrupt and leave the rest to me and the Republican Congressmen.”			have the ability to cross-examine those who claim he made this statement.	Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
19	On December 31, 2020, Trump asked Rosen and Donoghue to direct the Department of Justice to seize voting machines.	Section II.A., p. 9.	Fn. 21 (Jan. 6 th Report at 396).	See Disputed Fact No. 18.	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.
20	Rosen and Donoghue rejected Trump’s request, citing the Department of Justice’s lack of any legal authority to seize state voting machines.		Fn. 22 (Jan. 6 th Report at 396-97).	See Disputed Fact No. 18.	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.
21	“On January 2, 2021, Jeffrey Clark, the acting head of	Section II.A., p. 9.	Fn. 23 (Jan. 6 th Report at 397).	Bureaucratic gossip and authorization to speak	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	the Civil Division and head of the Environmental and Natural Resources Division at the DOJ, who had met with Trump without prior authorization from the DOJ, told Rosen and Donoghue that Trump was prepared to fire them and to appoint Clark as the acting attorney general.” (emphasis added)			with President Trump is irrelevant.	
22	Clark asked Rosen and Donoghue to sign a draft letter to state officials recommending that the officials send an alternate slate of electors to Congress, and told	Section II.A, p. 9.	Fns. 24-25 (Jan. 6 th Report at 389-90, 397.	See Disputed Fact Nos. 14, 18.	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	them that if they did so, then Clark would turn down Trump’s offer and Rosen would remain in his position. Rosen and Donoghue again refused.				
23	Following his election loss, Trump publicly and privately pressured state officials in various states around the country to overturn the election results.	Section II.A., p. 9.	Unsupported.	No evidence to support this statement. President Trump disputes that he “pressured” state officials to overturn election results. And this is not evidence of engaging in insurrection.	Improper legal conclusion and subjective statement of fact unsupported by admissible evidence.
24	Trump pressured Georgia Secretary of State Brad Raffensperger to “find 11,780 votes” for him, and thereby fraudulently and unlawfully turn his electoral loss in	Section II.A, p. 9-10.	Fn. 26 (Jan. 6 th Report at 263).	Improperly characterizes evidence. On the call, President Trump clearly noted that all he needed to win the state was 11,780 votes and that President Trump believed that more votes than that number had been illegally cast.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	Georgia to an electoral victory.			Irrelevant to whether President Trump “engaged in insurrection.”	
25	Trump’s relentless false claims about election fraud and his public pressure and condemnation of election officials <i>resulted in</i> threats of violence against election officials around the country. (emphasis added)	Section II.A, p. 10.	Fn. 27 (Jan. 6 th Report at 303-05).	Irrelevant to whether President Trump “engaged in insurrection.” There is no evidence of causation regarding threats of violence around the country. Gabriel Sterling video (Fn 28—P-126 attached in Group Exhibit 4) and President Trump’s retweet of the video (Fn. 29—Group exhibit 7 at 3) only show allegations of threats in Georgia, and President Trump has not testified about these issues nor did he cross-examine the witnesses involved.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.
26	Trump and his then-attorney John Eastman met with then Vice President	Section II.A., p. 10.	Fn. 30 (Jan. 6 th Report at 428).	Calling the theory “baseless” is subjective opinion. See Disputed Fact No. 14.	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	Mike Pence and his attorney Greg Jacob to discuss Eastman’s baseless legal theory that Pence might either reject votes on January 6 during the certification process, or suspend the proceedings so that states could reexamine the results.				
27	As Trump later admitted, the decision to continue seeking to overturn the election after the failure of legal challenges was his alone.	Section II.A, p. 10.	Fn. 31 (NBC News Meet the Press Sept. 17, 2023 broadcast).	Irrelevant to whether President Trump “engaged in insurrection.” Mischaracterizes evidence. President Trump’s statement indicated his belief that election fraud took place.	See Disputed Fact No. 5.
28	All the while, Trump continued to publicly lie, maintaining that	Section II.A., p. 11	None.	No evidence, but rather argument by counsel. Irrelevant to whether President Trump	Unsupported legal conclusions and subjective statement of fact unsupported by admissible evidence.

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	the 2020 presidential election results were illegitimate due to fraud, and to set the false expectation that Pence had the authority to overturn the election.			“engaged in insurrection.” President Trump sincerely believed the election results were illegitimate due to fraud and that Pence had the authority to reject slates of electors, so they were not lies or false expectations. See Disputed Fact No. 14.	
29	That same day, Ali Alexander of Stop the Steal, and Alex Jones and Owen Shroyer of Infowars led a march on the Supreme Court. The crowd at the march chanted slogans such as “Stop the Steal!” “1776” “Our revolution!” and Trump’s earlier	Section II.B. p. 12.	Fns. 39-40 (Jan. 6 th Report at 505).	Irrelevant to whether President Trump “engaged in insurrection.” Any association with Alexander and Jones is contradicted by testimony that President Trump explicitly excluded Alexander and Jones from speaking at the Ellipse. (TR. 11/01/2023 p. 281:4-11); (TR. 11/01/2023 p. 293:8-11).	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	tweet, “the fight has just begun!”				
30	Trump continued to issue tweets encouraging his supporters to “fight” to prevent the certification of the election results.	Section II.B, p. 12.	Fn. 42 (Simi Aff., supra note 5, at Ex. A, 83:20-22 (Ex. 1).	Irrelevant to whether President Trump “engaged in insurrection.” See Trump Video Exhibits 1046-1048, 1054, 1074 showing politicians regularly use rhetoric like “fight,” but do not mean it as a call for actual physical combat or violence.	All of Simi’s testimony was based on President Trump’s protected speech and not any actions by President Trump. Simi admitted that all of the “patterns” of speech and behavior that he saw President Trump engage in are normal patterns of political speech. (TR. 10/31/2023, pp. 141:7-142:9). Simi further admitted that his testimony was limited to describing how President Trump’s comments were interpreted by far-right extremists. Simi never spoke to a single January 6, 2021 participant, and he testified that President Trump’s intent on or before January 6 th was beyond the scope of his opinion. (TR. 10/31/2023, pp. 206:20-207:4). Simi did not take into account First Amendment and standards in evaluating President Trump’s speech.
31	Other militarized extremist groups began organizing for January 6th after Trump’s “will be wild” tweet. These include the	Section II.C., p. 13.	Fn. 46 (Jan. 6 th Report at 499-501; Simi Aff., supra note 5, at Ex. A, 17:14-15 (Ex. 1)).	Irrelevant to whether President Trump “engaged in insurrection.” The groups referenced in this statement have not submitted testimony in	See Disputed Fact Nos. 3, 9, 18, and 30, including objections to January 6 th Report.

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	Oath Keepers, the Proud Boys, the Three Percenter militias, and others.			this case, nor has President Trump testified about these groups, nor has President Trump had an opportunity to cross-examine witnesses testifying to these purported findings.	
32	Members of extremist groups logically and predictably understood Trump’s “will be wild” tweet as a call for violence in Washington, D.C. on January 6 th	Section II.C., p. 13.	Fn. 48 (Simi Aff., supra note 5, at Ex. A, 80:13-81:1 (ex. 1)).	See Disputed Fact No. 31.	Speculation. See Disputed Fact No. 30.
33	On December 29, 2020, Alexander tweeted, “Coalition of us working on 25 new charter busses to bring people FOR FREE to #Jan6 #STOPTHESTEAL	Section II.C., p. 14.	Fn. 53 (January 6th Report, supra note 7, at 532 (Ex. 8)).	See Disputed Fact No. 29.	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	L for President Trump. If you have money for buses or have a company, let me know. We will list our buses sometime in the next 72 hours. STAND BACK & STAND BY!”				
34	By December 29, 2020, Trump had formed and conveyed to allies a plan to order his supporters to march to the Capitol at the end of his speech in order to stop the certification of electoral votes.	Section II.C., p. 14.	Fn. 55 (Jan. 6 th Report at 533).	President Trump disputes all facts in this statement.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report. This is opinion unsupported by any testimony or documentation.
35	In early January 2021, extremists began publicly referring to January 6 using increasingly threatening	Section II.C., pp. 14-15.	Fn. 58 (Simi Aff. at Ex. A, 29:2-9 (Ex. 1))	No evidence of “threatening terminology.” No evidence that any member of the crowd on January 6, 2021, viewed	Hearsay. See Disputed Fact Nos. 3, 9, 18, and 30.

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	terminology. Some referred to a “1776” plan or option for January 6, suggesting by analogy to the American Revolution that their plans for the January 6 congressional certification of electoral votes included violent rebellion.			“1776” as a call to violence.	
36	By early January 2021, Trump anticipated that the crowd was preparing to amass on January 6 at his behest would be large and ready to follow his command.	Section II.C, p. 15.	Fn. 62 (Ex. 12, Letter from Donald J. Trump to The Select Committee to Investigate the January 6th Attack on the U.S. Capitol, at 2-3 (Oct. 13, 2022)).	Mischaracterizes the content of Trump’s letter – he merely said that he authorized the National Guard because “based on instinct and what I was hearing, that the crowd coming to listen to my speech, and various others, would be a very big one.”	

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37	During the rally, Trump made clear his intentions that the transfer of power set for January 6, 2021 would not take place because “We’re going to fight like hell” and “take [the White House] back.”	Section II.C., p. 15.	Fn. 59 (Jan. 4, 2021 video of Trump GA rally, Bloomberg).	See Disputed Fact No. 30.	See Disputed Fact Nos. 1 and 13.
38	Speakers during these events made remarks indicating that the event to be held at the Capitol the next day would be violent.	Section II.C., p. 15.	Fn. 64 (Jan. 6 th Report at 537-38).	See Disputed Fact No. 30.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.
39	Trump was personally informed of these plans for violent action, but despite the expectation of violent action, Trump proceeded	Section II.D, p. 17.	Fn. 76 (Jan. 6 th Report at 63, 66-67, 539-40).	President Trump has not testified about these issues nor did he cross-examine the witnesses involved.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

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	with his plans for January 6, 2021.				
40	Statements from Mo Brooks and Giuliani at Ellipse.	Section III.D., p. 19.	Fn. 81-82 (the Hill and WaPo from Jan. 6, 2021).	Cherry-picks statements from the speech out of context. See Disputed Fact No. 30.	Hearsay. See Disputed Fact No. 3, 5, including objections to January 6 th Report.
41	At the Ellipse, an estimated 25,000 people refused to walk through the magnetometers at the entrance. When Trump was informed that people were not being allowed through the monitors because they were carrying weapons...	Section III.D., p. 19	Fn. 84-85 (January 6 th Report, supra note 7, at 585 (Ex. 8); Heaphy Testimony, supra note 74, at 217:9-18 (Ex. 15)).	Heaphy says “we had testimony that he was told about weaponry” but provides no detail that would allow President Trump the meaningful ability to investigate this claim.	See Disputed Fact No. 3, 9, and 18 (regarding hearsay).
42	Trump supporters understood the calls to “fight,” not as metaphorical but as a literal call to violence. And while in the midst of the calls to go to the	Section III.D, p. 21.	Simi Aff., supra note 5, at Ex. A, 49:14-21, 59:7-17, 101:8-102:21, 126:11-19,	See Disputed Fact No. 30.	See Disputed Fact No. 3.

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	Capitol to “fight” Trump also stated, “I know that everyone here will soon be marching over to the Capitol Building to peacefully and patriotically make your voices heard.” Professor Peter Simi has testified that this statement was part of a communication style aimed at preserving plausible deniability and was understood by Trump supporters to do nothing to diminish the call for fighting and violence.		221:10-21 (Ex. 1).		
43	The attackers, following directions from Trump and his	Section III.E, p. 22.	Rally on Electoral College Vote Certification,	Mischaracterization of evidence. The evidence of “common purpose” was the use of the	“Fact” not supported by the evidence cited.

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	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	allies, shared the common purpose of preventing Congress from certifying the electoral vote.		supra note 87; Ex. 2, Hodges Affidavit, at Ex. A, 71:17-21, 7:6-15; Ex. 14, Pigeon Testimony, at 200:25-210:11.	“Heave-Ho” chant to breach a door, people holding similar flags, and that the officers knew what was happening in the Capitol – this does not demonstrate “the common purpose of preventing Congress from certifying the electoral vote”	
44	Many were armed with weapons including knives, tasers, pepper spray, and firearms.	Section III.E., p. 22.	Hodges Aff., supra note 98, at Ex. A, 74:2-8, 75:15-76:1 (Ex. 2); January 6th Report, supra note 7, at 640-42 (Ex. 8).	No evidence that anyone had firearms. The word “many” mischaracterizes the evidence, in light of the tens of thousands who attended the rally at the Ellipse.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
45	By this point, both the House Chamber and Senate Chamber were under the control of the attackers.	p. 24	None.	No evidence that “attackers” had chambers “under control.”	Unsupported legal conclusion and subjective statement of fact not supported by evidence.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
46	After this, Trump immediately began watching the Capitol attack unfold on live news in the private dining room of the White House.	Section III, p. 25	January 6th Report, supra note 7, at 593 (Ex. 8).	Irrelevant to whether President Trump “engaged in insurrection.” See Disputed Fact Nos. 3, 9.	See Disputed Fact Nos. 3, 9, 18, including objections to January 6 th Report.
47	Against his advisors’ recommendation above, rather than make any effort to stop the mob’s attack, he encouraged and provoked the crowd further by tweeting: Mike Pence didn’t have the courage to do what should have been done to protect our Country and our Constitution, giving States a chance to certify a corrected	Section III, p. 25	Trump Tweet Compilation, supra note 9, at 16 (Group Ex. 7); January 6th Report, supra note 7, at 429 (Ex. 8).	Does not support a conclusion that President Trump “encouraged” or “provoked” the crowd. No statements from any participant or organizer to this effect. No evidence of President Trump’s intent. President Trump was exercising his First Amendment rights to speak on a matter of national concern, not to encourage and provoke violence.	See Disputed Fact Nos. 3, 6, 9, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. USA demands the truth.				
48	Trump’s 2:24 PM tweet “immediately precipitated further violence at the Capitol.” Immediately after it, “the crowds both inside and outside the Capitol building violently surged forward.”	Section III, p. 25.	January 6th Report, supra note 7, at 86 (Ex. 8).	Implies causation between the Trump tweet and the action of members in crowd, with no evidence that members of the crowd read his tweets. No evidence of a “surge” in the crowds at that time period. Also, the following sentence of the MSJ indicates that this reaction happened 30 seconds later – this is too fast for a unified reaction to a tweet.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report. This conclusion is not a fact and it is disputed.
49	Shortly after Trump’s tweet, Cassidy Hutchinson and Pat Cipollone	Section III, p. 26.	January 6th Report, supra note 7, at 596 (Ex. 8).	This is not evidence demonstrating that President Trump believed Vice President	This is classic hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	expressed to Meadows their concern that the attack was getting out of hand and that Trump must act to stop it. Meadows responded, “You heard him, Pat...He thinks Mike deserves it. He doesn’t think they’re doing anything wrong.			Pence “deserved” violence.	
50	Around 2:26 PM, Trump made a call to Republican leaders trapped within the Capitol. He did not ask about their safety or the escalating situation but instead asked whether any objections had been cast against	Section III, p. 26.	January 6th Report, supra note 7, at 598 (Ex. 8).	No evidence that anyone was “trapped” within the Capitol, and this characterization is contradicted by the fact that Pence and others were evacuated. Irrelevant what Trump asked or said to those who were “trapped.”	Hearsay within the January 6 th report. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	the electoral count... McCarthy urged Trump on the phone to make a statement directing the attackers to withdraw, Instead, Trump responded with words to the effect of, “Well, Kevin, I guess they’re just more upset about the election theft than you are.”				
51	Throughout the time Trump sat watching the attack unfold, multiple relatives, staffers and officials – including McCarthy, Trump’s Daughter Ivanka, and attorney Eric Herschmann – tried to convince	Section III, p. 27.	January 6th Report, supra note 7, at 599, 601-04.		This is classic hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	Trump to make a direct statement telling the attackers to leave the Capitol.				
52	Many attackers saw this tweet but understood it not to be an instruction to withdraw from the Capitol, and the attack raged on.	Section III, p. 27.	See e.g., Simi Aff., supra note 5, at Ex. A, 78:18-23 (Ex. 1).	See Disputed Fact Nos. 3, 9, 30.	See Disputed Fact Nos. 3, 9, 18, and 30. Simi never spoke with or interviewed a single participant in the events of January 6, 2021.
53	Trump did not himself order any additional federal military of law enforcement personnel to help retake the Capitol.	Section III, p. 27.	See January 6th Report, supra note 7, at 6-7, 595 (Ex. 8); Ex. 10, the Daily Diary of President Donald J. Trump, January 6, 2021; Ex. 13, Banks Testimony, at 255:21-256:18.	This omits Kash Patel’s testimony that Trump authorized 10-20K national guardsmen. (TR. 11/01/2023, pp. 205:5-206:25); (TR. 11/01/2023, p. 212:1-3); (TR. 11/01/2023, p. 212:17-20); TR. 11/01/2023, p. 214:9-13)	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
54	In fact, when [Trump] finally did issue such a statement, after multiple deaths and after the tides were starting to turn against his violent mob as more law enforcement arrived, it had precisely that effect. At 4:17 PM, nearly 187 minutes after attackers first broke into the Capitol, Trump released a video on Twitter directed to those currently at the Capitol.	Section III, p. 28.	None (but arguably FN 137 applies to this statement, which says “January 6th Report, supra note 7, at 579-80 (Ex. 8)).	“After multiple deaths”– there were not multiple deaths. No evidence of multiple deaths. No evidence that members of crowd saw video and responded “precisely.” Further, statement is directly contradicted by D.C. Mayor Muriel Bowser’s statement and Tom Bjorklund’s testimony.	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
55	Immediately after Trump uploaded the video to Twitter, the attackers began to disperse from the	Section III, p. 28.	January 6th Report, supra note 7, at 606 (Ex. 8).	This conclusion is directly contradicted by Muriel Bowser’s public text and Tom Bjorklund’s testimony.	See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	Capitol and cease the attack				
56	Around 5:20 PM, the D.C. National Guard began arriving. This was not because Trump ordered the National Guard to the scene; he never did. Rather, Vice President Pence – who was not actually in the chain of command of the National Guard – ordered the National Guard to assist the beleaguered police and rescue those trapped at the Capitol.	Section III, p. 28-29.	Banks Testimony, supra note 135, at 255:21-256:18 (Ex. 13); January 6th Report, supra note 7, at 578, 724, 747 (Ex. 8).	Banks offered legal opinions as a professor of law. He did not testify to any of the events on January 6 th . See also Disputed Fact No. 53. Irrelevant to whether President Trump “engaged in insurrection.”	Banks did not testify to any of these facts. January 6 th report is hearsay. These facts are not supported by evidence in the record. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.
57	Even after Congress reconvened, Trump’s attorney Eastman continued	Section III, p. 29	167 Cong. Rec. H98; January 6th Report, supra note 7, at 669	Irrelevant to whether President Trump “engaged in insurrection.”	Hearsay. See Disputed Fact Nos. 3, 9, and 18, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
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	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	to urge Pence to delay the certification of the electoral results. Ultimately, though six Senators and 121 Representatives voted to reject Arizona’s electoral results and seven Senators and 138 Representatives voted to reject Pennsylvania’s results, Biden’s election victory was finally certified at 3:32 AM, January 7, 2021.		(Ex. 8); Swalwell Testimony, supra note 114, at 169:11- 20 (Ex. 16).		
58	Professor Peter Simi, an expert in political extremism testified that the Trump supporters participating in January 6 understood that	Section III, p. 29.	Simi Aff. Supra note 5, at Ex. A, 49:14-21, 59:7- 17, 101:20- 102:6, 126:11- 19, 221:10-21 (Ex. 1).	See Disputed Fact No. 30.	Simi’s testimony was about how groups generally understood Trump’s speech. But he did not personally interview or talk to a single January 6 th participant. He relied entirely curated, incomplete, and doctored videos from the January 6 th report. See Disputed Fact No. 3, 9, and 30, including objections to January 6 th Report.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	Trump’s calls to “fight” were literal calls for violence and his communications to them incited the events at the Capitol, based on the history and pattern of Trump’s communications and extremist culture.				
59	In total, more than 250 law enforcement officers were injured as a result of the January 6th attacks, and five police officers died in the days following the riot.	Section III, pp. 29-30.	January 6th Report, supra note 7, at 711 (Ex. 8).	No evidence that anyone died as a result of events from January 6 th , except for one civilian who was shot in the face at close range by a Capitol Police Officer. No evidence any police officer died as a result of the riot. DC Coroner ruled one officer’s death –Officer Sicknick – as resulting from “natural causes.”	See Disputed Fact Nos. 3, 9, including objections to January 6 th Report.
60	On May 10, 2023, during a CNN	P. 30.	Donald Trump CNN	Mischaracterizes the evidence. President	See Disputed Fact No. 5.

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	<p>town hall, Trump maintained his position that the 2020 presidential election was a “rigged election” stated his inclination to pardon “many of” the January 6th rioters who have been convicted of federal offenses, and acknowledged that he had control of the January 6th attackers, who “listen to [him] like no one else”</p>		<p>Townhall Kaitlan Collins 10 May 2023 Ep, at 42:13, DAILYMOTION (May 11, 2023), https://www.dailymotion.com/video/x8kup36 [hereinafter Trump CNN Townhall]; see also CNN, READ: Transcript of CNN’s town hall with former President Donald Trump (May 11, 2023), https://www.cnn.com/2023/05/11/politics/transcript-</p>	<p>Trump never claimed he had control over January 6th participants. Rather, he claimed that his supporters listen to him “like no one else.”</p>	

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
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	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
			cnn-town-hall-trump/index.html.; id at 13:22; id at 8:24.		
61	As recently as November 2023, Trump decried the prison sentences January 6 attackers received for their criminal activity, referring to them as “hostages.” At a 2024 presidential campaign event he stated: “I call them the J6 hostages, not prisoners. I call them hostages, what’s happened. And it’s a shame.”	P. 30.	Former President Trump Campaigns in Houston, at 5:05, C-SPAN (Nov. 2, 2023), https://www.c-span.org/video/?531400-1/president-trump-campaigns-houston .	Statements decrying prosecutions, years after the events of January 6, 2021, are irrelevant to whether President Trump “engaged in insurrection.”	See Disputed Fact No. 5.
62	On December 3, 2022, in a post on social media website Truth Social, Trump called for	P. 30	Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Dec.	Irrelevant to the determination of whether the events of January 6th constitute an insurrection.	

**President Trump’s Disputed Facts from Objectors’ Motion to Grant Objectors’ Petition,
or in the Alternative, for Summary Judgment**

	Factual assertion	Cite in Brief	Claimed Evidentiary Support	Basis for disputing assertion	Evidentiary Objection
	“termination of all rules, regulations and articles, even those found in the Constitution.		3, 2022, 6:44 AM), https://truthsocial.com/@realDonaldTrump/posts/109449803240069864		

**District Court
City and County of Denver**

Case No. 2023CV32577

Anderson et al v. Griswold et al

Admitted Trial Exhibits - Intervenor Donald J. Trump

November 6, 2023

Ex. No.	Description
1000	Video, January 5, 2021--Bjorklund Campground
1001	Video, January 6, 2021--Bjorklund Jan. 6 Wash. Monument 1
1002	Video, January 6, 2021--Bjorklund Jan. 6 Walk to Capitol 1
1003	Video, January 6, 2021--Bjorklund Jan. 6 Wash. Monument 2
1004	Photo, January 6, 2021--Bjork. Jan. 6 Ellipse 1
1005	Photo, January 6, 2021--Bjork Jan. 6 Ellipse 2
1006	Photo, January 6, 2021--Bjork. Jan. 6 View of Capitol from Ellipse/Wash. Mon
1007	Photo, January 6, 2021--Bjork. Walk to Capitol 2
1008	Photo, January 6, 2021--Bjork. Walk to Capitol 3
1009	Photo, January 6, 2021--Bjork. Walk to Capitol 3
1010	Video, January 6, 2021--Bjork. Walk to Capitol 2
1011	Video, January 6, 2021--Bjork Walk to Capitol 3
1012	Video, January 6, 2021--Bjork View of Capitol
1013	Video, January 6, 2021--Bjork View of Capitol 2
1014	Video, January 6, 2021--Bjork. View from Foot of Capitol Stairs 1
1015	Video, January 6, 2021--Bjork View of Capitol 3
1016	Video, January 6, 2021--Bjork View from Foot of Capitol Stairs 2
1017	Photo, January 6, 2021--Bjork on Capitol Steps
1018	Photo, January 6, 2021--Bjork. Pic. of Patriot
1019	Video, January 6, 2021--Bjork. View of Cap Scaffolding 1
1020	Video, January 6, 2021--Bjork. View of Cap Scaffolding 2
1022	Video, January 6, 2021--Bjork. Walk Back from Capitol 1

Exhibit B

**District Court
City and County of Denver**

Case No. 2023CV32577

Anderson et al v. Griswold et al

Admitted Trial Exhibits - Intervenor Donald J. Trump

November 6, 2023

Ex. No.	Description
1023	Video, January 6, 2021--Bjork Walk Back from Capitol 2
1025	Video, December 12, 2020 Rally--Kremer
1027	Timeline--Kash Patel 1
1028	Letter, Murial Brower to The Hon. Jeffrey Rosen, The Hon. Ryan D. McCarthy, The Hon. Chris Miller, Jan. 5,
1031	<i>Review of DOD's Role, Responsibilities, and Actions to Prepare for and Respond to the Protest and Its And Respoind to the Protest and Its Aftermath at the U.S. Capitol Campus on January 6,</i>
1045	Letter Muriel Bowser to Donald J. Trump, June 4, 2020
1046	Video, Maxine Waters saying to create a crowd at Trump administration officials and push back on them
1047	Video, Elizabeth Warren saying she wants to smack President Trump
1048	Chuck Schumer warning that Justices Gorsuch and
1054	Joe Biden saying he would like to take President Trump
1059	President Trump full statement on Charlottesville
1066	Tweets from Rep. Eric Swalwell
1074	Video, Democrats using material rhetoric video
1080	<i>Read the full transcript from the first Presidential Debate between Joe Biden and Donald Trump, USA Today, Oct. 4, 2020</i>
1081	Remarks by President Trump Before Marine One Departure, Sept. 30, 2020.
1082	Video from Rally at the Ellipse
1083	Video Clip, Sept. 29, 2020, Presidential Debate

**BEFORE THE ILLINOIS STATE BOARD OF ELECTIONS
SITTING *EX-OFFICIO* AS THE STATE OFFICERS ELECTORAL BOARD**

STEVEN DANIEL ANDERSON, CHARLES J.)	
HOLLEY, JACK L. HICKMAN, RALPH E.)	
CINTRON, AND DARRYL P. BAKER,)	No. 24 SOEB GP 517
)	
Petitioners-Objectors,)	
)	
v.)	
)	
DONALD J. TRUMP,)	Hearing Officer Clark Erickson
)	
Respondent-Candidate.)	

AFFIDAVIT OF TRENISS EVANS

I, Treniss Evans, being duly sworn on oath, state that I have personal knowledge of the facts contained herein, that the answers are true and correct to the best of my knowledge and belief and, if called as a witness, that I would testify as follows:

1. My name is Treniss Evans.
2. I am 49 years of age.
3. I own and operate my family’s business.
4. The night of January 5, 2021, I stayed at the Freedom Plaza Marriott hotel (the “Hotel”), located at 1331 Pennsylvania Avenue, NW, Washington, District of Columbia.
5. The morning of January 6, 2021, I left the Hotel at approximately 8:00 AM and walked towards the location where President Trump would be speaking later that morning (the “Ellipse”).
6. I arrived in the area of the Ellipse approximately two hours before President Trump began speaking.
7. From the time I left the Hotel until President Trump began speaking at the Ellipse, I estimate that I saw tens of thousands of fellow demonstrators, and I spoke to dozens of them.
8. During this time, the tone and tenor of the other demonstrators present was peaceful and excited to hear President Trump speak.
9. In addition to the thousands of people I could see, I could hear what sounded like many thousands more.

Exhibit C

10. The crowd was comprised of people from every possible demographic and age range. I saw parents pushing children in strollers and carrying their children on their backs, and I saw many elderly demonstrators who required “walkers” to help them get around.

11. During this time, I did not hear anyone expressing any violent intent or the intent to break the law.

12. I did, however, hear people talking about walking to the Capitol following President Trump’s remarks to continue to demonstrate.

13. None of the people whom I heard talking about going to the Capitol said anything that would indicate that they had the intent to breach the Capitol or to disrupt the proceedings scheduled to take place at the Capitol or to do anything violent.

14. While some of the demonstrators were wearing faux tactical equipment – such as vests or helmets – I did not see anyone with any weapons whatsoever.

15. Prior to President Trump speaking, I took out my phone and recorded a video of the crowd.

16. I have provided this video as **Exhibit 1** to this Affidavit, and it is available at <https://www.dropbox.com/scl/fi/ksei4rge555y5j4ahxahq/Exhibit-1-Video-near-Ellipse.mp4?rlkey=8ohs3vyt9agu2bhivj6uljyao&dl=0>

17. **Exhibit 1** is a video taken by me and it accurately depicts the scene around the Ellipse as I saw it prior to President Trump taking the stage on January 6, 2021.

18. In **Ex. 1**, tens of thousands of demonstrators preparing to listen to President Trump’s remarks are visible.

19. As is evident in **Ex. 1**, the crowd is calm and peaceful and there is no indication that anyone is armed in any way whatsoever.

20. I listened to the entirety of President Trump’s remarks at the Ellipse.

21. The location where I stood to listen to President Trump’s remarks was outside the circle of magnetometers around the Ellipse that I never even knew existed.

22. While I did not pass through any magnetometers on January 6, 2021, I was not armed.

23. During his remarks near the close of his speech, I heard President Trump ask the crowd to “peacefully and patriotically” go to the Capitol to continue their demonstrations.

24. I was delighted to hear President Trump would be joining us at the Capitol where I had already intended to be.

25. There were flyers circulating both online and being handed out about the events scheduled for permitted stages and speakers at the Capitol on January 5th and 6th
26. Prior to walking to the Capitol, I returned to the Hotel to get more food and water and to pack another layer and my rain jacket and pants.
27. From the time that I left the Ellipse until I returned to the hotel, I saw thousands or tens of thousands of fellow demonstrators and I talked to a few dozen people throughout the morning and during President Trumps speech.
28. As before, I could hear many more people than I could see.
29. During this time, the tone and tenor of the other demonstrators continued to be peaceful and excited.
30. During this time, I did not witness anyone with weapons of any sort.
31. I did not hear anyone expressing any violent intent or the intent to break the law.
32. Once I left the Hotel, I walked down Pennsylvania Avenue from the Hotel to the Capitol.
33. As I walked, I saw thousands of other demonstrators walking towards the Capitol as well.
34. Again, I could hear many more people than I could see.
35. Some of the demonstrators walking to the Capitol were wearing Revolutionary War era Halloween costumes – one person wearing such a costume was even holding two Halloween candy buckets that had been labeled “tar” and “feathers.”
36. It was very clear that the costume and the buckets were meant to be political hyperbole and not meant to be a threat.
37. As I walked to the Capitol, I did not see anyone with any weapons of any kind.
38. As I walked to the Capitol, myself and the other demonstrators were excited and completely non-violent.
39. While walking to the Capitol, myself and the people I was walking near, heard repeated explosions coming from the direction of the Capitol. Based on the jovial atmosphere, we believed that these were either fireworks or ceremonial cannons being fired. It was only the next day through reading about the events of January 6th did I learn that these were “flashbangs” fired by Capitol Police at demonstrators.
40. I distinctly remember one individual who had a small child I would guess to be around age 10 asking if anyone knew if there were going to be fireworks.

41. The police had parked their squad cars to block the cross streets and protect the demonstrators on the “march route.” The officers stood by or casually leaned on their vehicles.

42. The officers were receiving messages of support and love from the demonstrators and responded in kind.

43. I arrived at Peace Circle shortly after 2pm.

44. I entered the Capitol Grounds from the area of the “Peace Circle” at the end of Pennsylvania Avenue.

45. As I approached the Capitol building, I did not cross any sort of Police barricades or see any signage.

46. I did not witness signs or any barricade indicating people were not allowed to be on the grounds.

47. I did, however, walk past dozens of police officers and not one of them said anything to me to try to convince me to leave the area.

48. As I passed the police officers, myself and other demonstrators exchanged friendly greetings with them and they responded in kind.

49. As I approached the steps west of the inauguration stage outside the Capitol, I saw dozens and maybe hundreds of people going up the steps to the upper west terrace.

50. Upon reaching the upper west terrace I stood and observed the scene for approximately 20 minutes.

51. While standing outside the Capitol building, I led the demonstrators around me in the National Anthem and the Pledge of Allegiance.

52. None of the dozens of police officers who were standing near the demonstrators on the upper west terrace made any indication I should not be there.

53. After observing people enter the Capitol for about twenty minutes, I decided that I wanted to go into the building myself.

54. I recognize, and freely admit, that this was the wrong thing to do and that I shouldn't have entered the Capitol building. However, I did not enter the Capitol at the direction of President Trump – I went inside because my curiosity got the best of me.

55. As soon as I entered the Capitol building, I was recorded on the Capitol's closed-circuit camera system (“CCTV”).

56. I have provided this video as **Exhibit 2** to this Affidavit, and it is available at <https://www.dropbox.com/scl/fi/566ijfwojt86vzrx0uj13/Exhibit-2-Video-inside-Capitol.asf?rlkey=s2mzrxktk8pd9gz6y6bj0gsuy&dl=0>

57. **Exhibit 2** is a video taken by the Capitol CCTV system and it accurately depicts the scene immediately inside the Capitol building's West Terrace as I saw it at approximately 3pm on January 6th, 2021.

58. I can be seen in **Ex. 2** entering the Capitol building at the 11 second mark of the video (wearing a yellow beanie and holding a megaphone).

59. As shown in **Ex. 2**, there were hundreds of fellow demonstrators inside the Capitol building, and they were just milling around taking pictures and talking excitedly.

60. Officers were taking selfies, giving hugs and engaged in casual conversation with demonstrators

61. Upon seeing the attitude of officers and hearing others calling for people to enter I invited others into the building.

62. None of the people that I saw at this point, or that are shown in **Ex. 2** are being violent or aggressive in any way.

63. None of the people that I saw at this point – or at any point throughout January 6th – were armed or using weapons of any kind.

64. At this point, I did not see – and had not seen – anyone being violent or threatening to law enforcement in any way.

65. Once inside the Capitol building, I lead the people around me in singing the National Anthem.

66. I again led the National Anthem as I walked towards what I now know is called the “Crypt” area of the Capitol.

67. When I entered the Crypt, I heard – for the first time – somebody expressing ill intent in the form of suggesting arson. I heard an unknown person say something to the effect of “burn it down!”

68. Hearing this, I took out my phone and recorded a video while on my megaphone instructing others to be peaceful. I said “Do not break, do not damage do not harm this is a peaceful protest.”

69. I have provided this video as **Exhibit 3** to this Affidavit, and it is available at <https://www.dropbox.com/scl/fi/2mtip0od5rreq13v3ie8i/Exhibit-3-Video-from-Crypt.mp4?rlkey=hbus0utmmvcy5n8w7t1oq96xi&dl=0>

70. **Exhibit 3** is a video taken by me and it accurately depicts the scene in the Capitol's Crypt as I saw it at approximately 3:10pm on January 6, 2021.

71. In **Ex. 3**, hundreds of demonstrators can be seen aimlessly milling about the Crypt area of the Capitol.

72. None of the people shown in **Ex. 3** are being – or threatening to be – violent.

73. As is shown in **Ex. 3**, in response to the man who yelled “burn it down!,” many people around me began to shout at the person who suggested burning the building that “we aren’t here to commit crimes.” Knowing that President Trump told us to be peaceful, I joined in the chorus of voices, saying “we don’t burn our buildings or destroy our cities” we are not “ANTIFA!” and I said “we back the blue and support the police” Do not harm the police, do not damage the building, do not destroy your own property.”

74. Hearing my statements, two police officers that had been standing nearby approached me and shook my hand and then patted me on the back and he then asked me “when can we get these people out of here?” I responded by saying “I don’t know, but more people are coming behind me,” but I told them that “we aren’t here to harm you or to hurt the building”

75. At this point, I no longer felt good being inside the Capitol building – this was the first time that any law enforcement indicated they wanted to get people to leave – so I began to retrace my steps to leave the same way I had entered – through the broken window near the West Terrace.

76. While walking towards the window, I passed an open room that I was falsely told was then-Speaker Pelosi’s office, and I stopped to look around and to take pictures.

77. At this point, I saw several people sitting around on sofas and on the floor. These people were calmly talking with each other and some were even taking food out of their bags and making sandwiches.

78. While I was standing outside the office, I received a phone call from my Mother who knew I had gone to Washington DC for President Trump’s speech. I told her that I was actually inside the Capitol and she insisted that the demonstration had turned violent and she told me that a woman (I later learned that this was Ashli Babbitt) had been shot by the police.

79. The situation where I was – and everything I had seen – was so non-violent and controlled that I did not believe my Mother, thinking that what she was saying was absurd, and I told her that everything was fine before hanging up and resuming my walk out of the Capitol.

80. At this point, I heard police officers asking people to leave the Capitol, so I began to repeat their instructions and saying “back the blue!” to the people around me while starting to walk towards the window that I had used to get inside the building.

81. Hearing me repeat their calls and my statements of support, several police officers gave me a “fist bump” or patted me on the back, thanking me for helping.

82. It was apparent that the police officers did not view the demonstrators as a threat to their safety because the police did not yell orders at any demonstrators, they did not brandish weapons toward any of the demonstrators, and they did not adopt a combative or defensive posture towards the demonstrators. Instead, the police officers inside the Capitol building interacted with myself and other demonstrators in an easy, relaxed and friendly manner.

83. I was inside the Capitol building for approximately 12 minutes.

84. Once I left the Capitol building, I walked around the balcony on the West Terrace and when I turned the corner, I saw a small handful of people breaking windows by kicking them. This was the only property destruction that I personally witnessed the entire day.

85. Demonstrators were calling these people down and visibly disturbed as was I by seeing this.

86. I then walked back to the Hotel and eventually went to sleep pondering the stark reality of the difference of what I witnessed and what was showing on the TV.

87. Throughout the entirety of January 6, 2021, I estimate that I saw more than 100,000 demonstrators, and I heard many thousands more. Out of all of those people I saw and heard, I only heard one person talk about committing any acts of violence (see ¶ 67, above), and only saw approximately 6-8 people damaging property (see ¶ 84, above).

FURTHER AFFIANT SAYETH NAUGHT.

Treniss Evans

Treniss Evans

STATE OF COLORADO)
)ss.
COUNTY OF GRAND)

Subscribed and Sworn to before me this 23rd day of January, 2024.

Joanna Bila

NOTARY PUBLIC

Notarized online using audio-video communication

Joanna Bila
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19974005174
MY COMMISSION EXPIRES MARCH 23, 2025

**BEFORE THE ILLINOIS STATE BOARD OF ELECTIONS
SITTING *EX-OFFICIO* AS THE STATE OFFICERS ELECTORAL BOARD**

STEVEN DANIEL ANDERSON, CHARLES J.)	
HOLLEY, JACK L. HICKMAN, RALPH E.)	
CINTRON, AND DARRYL P. BAKER,)	No. 24 SOEB GP 517
)	
Petitioners-Objectors,)	
)	
v.)	
)	
DONALD J. TRUMP,)	Hearing Officer Clark Erickson
)	
Respondent-Candidate.)	

AFFIDAVIT OF CHRIS BURGARD

I, Christopher Burgard, being duly sworn on oath, state that I have personal knowledge of the facts contained herein, that the answers are true and correct to the best of my knowledge and belief and, if called as a witness, that I would testify as follows:

1. I am Christopher Burgard. I am 18 years of age or older.
2. I have been a filmmaker and director for over 30 years. I live in Pittsburg, Texas.

My family and I decided to go to Washington, D.C. on January 6th to record a historical moment.

3. Leading up to January 6, 2021, I was aware that rallies and events were planned at the Ellipse related to President Trump’s reelection campaign. I understood the rallies as intended to bolster the movement by certain congressional representatives to use their lawful authority to vote to delay the vote certification for the presidential election so that investigations could be conducted into potential irregularities affecting the election results.

4. On January 3, 2021, I made the decision with my family to attend the rally at the Ellipse on January 6, 2021, to hear President Trump speak. My family and I traveled from California to Washington, D.C. on January 5, 2021. We stayed at a rented house near the Capitol that I had previously rented when staying in Washington.

Exhibit D

5. I was motivated to attend the planned events on January 6, 2021, because I felt called by God to witness a historical moment and record it for posterity. I, like many others, believed that showing up to support President Trump on January 6, 2021, alongside tens or hundreds of thousands of other people, would inspire members of Congress to take lawful action to delay the vote certification so the results could be investigated for any wrongdoing.

6. The decision to go to Washington was solely mine and my family's. It was not based on any affiliation with any organization or group of people, nor was it in response to any call to action by any other person. Our intentions were entirely peaceful and lawful and we did not plan to attend any events on January 6th other than President Trump's speech at the Ellipse. We were not aware that there would be a march to the Capitol at all.

The crowd outside the Ellipse was massive, peaceful, and joyous.

7. On the morning of January 6, 2021, my family and I left our rental house and went to the Washington Monument area around 7:30 am or 8:00 am.

8. Because we were there to witness a historic moment, both my daughter and I had cameras and were recording footage and taking photos throughout the day.

9. I spent roughly four hours (from about 8:00 am to about 12 pm) outside the Ellipse and around the Washington Monument area before going in to see President Trump's speech.

10. There was a sea of people outside the Ellipse. I would estimate the number was easily over 100,000. This massive crowd was overwhelmingly joyous in its mood. People were smiling, talking, and socializing like it was a big party. I recorded videos of the crowd, showing a staggering number of people who were radiating calm and joy, just happy to be outside and social after a year of Covid lockdowns. Exhibits 1

(<https://dhillonlaw.box.com/s/kqurr996tjjuaay51q1syfndrlz6eqs9>), 2

(<https://dhillonlaw.box.com/s/6ihayitpn2pgmy7l8slc0scwum4it9s5>), 3

(<https://dhillonlaw.box.com/s/nv8d7e1s8qpld79k4trpp1q5bqlirixe>), 11

(<https://dhillonlaw.box.com/s/70d8zxko0vivehbcgc57368cjt4qbd5w>), 13

(<https://dhillonlaw.box.com/s/rdys1adwr4gzkym4se6rm5cd0gbz9d84>).

11. The people in this crowd and on the line to enter the Ellipse were notably diverse in age, sex, and ethnicity. There were people of all ages, including families with children in strollers and elderly people in wheelchairs, and people of all ethnicities in the crowd, all sharing in the joyous mood. Videos I took of the crowd shows how diverse and clean-cut it was and how the gathering at the Ellipse was a family-friendly, all-ages event. Exhibits 2, 3, 11, 12

(<https://dhillonlaw.box.com/s/wblbvzhzpg54romyrvav30v4d3arv3o8s>), 13.

12. I did not observe any anger, violent intent, or aggressiveness in the members of the crowd I saw or spoke to, with only two exceptions. Nor did I see any weapons on anyone other than police officers. The police officers I saw outside the Ellipse looked relaxed and calm and did not appear on guard around the crowd. One of the videos I took shows two police officers casually standing near the crowd in a relaxed posture. Exhibit 13.

13. During the time I was outside the Ellipse and around the Washington Monument, I filmed the crowd and interviewed roughly 30 people. I asked the people about why they were there and how they were feeling. I have video of these interviews and almost everyone I asked said they were there to support President Trump and/or that their reason for being there was to bolster congressional representatives so they would vote to investigate election irregularities. The people I interviewed were smiling, happy, and joyous. None of them were angry, violent, or aggressive about anyone or anything. Many of them seemed like they were having a great time

and enjoying the event like it was a party, and they were universally polite and cordial. Exhibits 2, 3, 4 (<https://dhillonlaw.box.com/s/grxa23kcx8o20m6n56cciyn5tyenzspz>), 5 (<https://dhillonlaw.box.com/s/u3sk1bnkqp31ebc6c1nzfixnddw6zzs6>), 6 (<https://dhillonlaw.box.com/s/np0ev64dqwtw0rhbjtzrypl3el6wjqu>).

14. One man I recorded an interview with said that coming to the event was not a partisan issue for him, but instead about respecting the constitution and rule of law for the sake of future generations. Exhibit 5.

15. I saw only two exceptions to the joyous, peaceful atmosphere in the crowd, and these exceptions stood out to me because they were so different from everyone else at the event. The first was a man dressed in black with a Fidel Castro-style hat who was shouting in a bullhorn about how people needed to take aggressive action and attack the Capitol. I took two videos of him, showing him trying to rile up people about going into the Capitol. He appeared to have one compatriot with him loudly agreeing with him as if he were part of the crowd, but both of them were ignored by the people around them. The videos show people either leaving a wide berth around him, passing or standing by and ignoring him, or recording his suspicious activity with bemused expressions. Exhibits 7

(<https://dhillonlaw.box.com/s/q3w9387xsutem1zbw6ipb3i6x8tgico3>), 8

(<https://dhillonlaw.box.com/s/7upfy6ytg3mdlexzsen8ssk9hzu2mc71>). The videos show that, other than his apparent compatriot, only about two or three people voiced any positive reaction to his shouting, out of the hundreds of people nearby. Exhibits 7, 8.

16. The other exception to the peaceful atmosphere I saw was Jacob Chansely, the man who famously wore the horned-hat and face paint. He looked odd and I have videos of him wandering along outside with a bullhorn rambling about communists. Exhibits 9

(<https://dhillonlaw.box.com/s/2vethxsirv4m6rcjlchzpp6oplqxcc56>), 10

(<https://dhillonlaw.box.com/s/xd25awe8iml4mcvkyrqhearol5pvzwmwu>). The videos show that no one around him was paying him any particular attention or joining in his antics, and the most anyone reacted to him was to glance in his direction when he was shouting in the bullhorn and look away quizzically after seeing how he was dressed. Exhibits 9, 10.

17. These two individuals stood out from the rest of the crowd because they did not match the normalcy of the rest of the crowd—their behavior of shouting and/or acting aggressively was utterly out of keeping with the peaceful calm of the crowd.

18. Toward noon, I got on the line to enter through security to the Ellipse. The line was enormous, there were thousands upon thousands of people in it. I took videos of how long the line was, and they show how it was a diverse crowd of all ages, full of happy, calm people chatting with one another and enjoying a beautiful, though very cold, day while music played in the background as part of a general party atmosphere. Exhibits 11, 12.

President Trump’s speech did not energize or rile up the crowd.

19. I waited on the security line for a while before finally making it through at around 11:50 am.

20. While my family was in the front few rows near the stage, I was at the back of the crowd to record footage. The people in the crowd around me for the speech were excited, but very cold, leading up to the President Trump’s appearance. In the crowd were all kinds of people of all ages and ethnicities, just like outside the security perimeter, including some nuns that people were clamoring to take photos with. I took video of the crowd in the Ellipse event that shows how diverse and joyous it was and how many people were trying to get their picture taken with the nuns. Exhibit 12, 13.

21. After President Trump's speech started, the crowd around me shifted from excited to generally bored. The speech did not contain any new information and it felt to me like a stump speech that did not have anything I had not heard before. It also felt like he started repeating his speech part of the way through. I took videos of the crowd during the speech that shows how people were not riled up or particularly energetic while the President was speaking. Exhibit 13, 14 (<https://dhillonlaw.box.com/s/ryj708av6ea41wvhnt6vosqjexsolgk8>).

22. When President Trump mentioned going to the Capitol to make our voices heard, there was no particular reaction in the crowd around me. There was no rise in energy or other notable reaction to President Trump's statement.

23. The biggest swells in energy in the crowd at the Ellipse were at the beginning of President Trump's speech when he came out to the stage and at the end when the speech finished and the crowd, including President Trump, started dancing to the song "Y.M.C.A." by the Village People. One of the videos I took shows the crowd's enthusiastic response to "Y.M.C.A." coming on at the end of the speech, and many people energetically joining in the dancing while President Trump himself was dancing to the music as well. Exhibit 15 (<https://dhillonlaw.box.com/s/s4uefoyo1g371viczvdqm5wh22e1b0hx>). The dancing to "Y.M.C.A." was wonderful, the song created a joyful, party atmosphere, with all kinds of people, young and old, joining in. Exhibits 15, 16 (<https://dhillonlaw.box.com/s/43zfr8bty176osvog8le4obj4mmwyjnh>).

24. As people were dispersing and leaving the Ellipse event area after the speech, it appeared that people were happy the speech was over and filing out of the event space to go use the bathrooms and/or because they were very cold, which can be seen in a video I took at the end of the speech. Exhibits 15, 16. The video also shows that people left the Ellipse event area quite

slowly and the crowd did not move with any particular speed or purpose after President Trump's speech ended. Exhibit 16.

The walk to the Capitol was slow and uneventful.

25. After the speech ended, my family and I joined the walk to the Capitol from the Ellipse around 1:15 pm or so.

26. We did not know ahead of time that there was going to be a walk to the Capitol, nor did many of the people I spoke with. My family and I had thought there was only going to be an event at the Ellipse and nothing further. While at the Ellipse, we heard from other members of the crowd that there were going to be more speakers at the Capitol after President Trump's speech, so we joined the walk to the Capitol to see them.

27. The crowd we joined going from the Ellipse speech to the Capitol was tens of thousands of people or more. It appeared that the majority of the people at the Ellipse joined the walk to the Capitol, but many people did not join because it was cold out.

28. The crowd was vast and moved at a very sedate pace. People were chatting, joking, laughing, and light-heartedly enjoying themselves on the walk. Videos I took of the walk to the Capitol show that the crowd was full of diverse, happy, smiling people of all ages and ethnicities, including families with young children and the elderly, and that people were slowly making their way over while having a great time, including joining in chants of "USA." Exhibits 17 (<https://dhillonlaw.box.com/s/x86lcc42jp6zhr1nb15bvcldrk1567ks>), 18 (<https://dhillonlaw.box.com/s/em039ro2ctoswp776517ufwvgwzgmego>), 19 (<https://dhillonlaw.box.com/s/0xmp80wtgmq7bu6q9noocgo2qe6xjs1r>), 20 (<https://dhillonlaw.box.com/s/va97z9akc4u9nzg9pcamn83wka1f30p3>). The family-friendly nature of the crowd was humorously reflected in one of my videos when someone tried to start a

chant involving a cuss-word and then swiftly stopped after someone pointed out there are children around. Exhibit 19.

29. I did not see anyone rushing or storming toward the Capitol or otherwise moving aggressively. Part of the reason the crowd was so slow was that there were so many elderly people, people in wheelchairs, and children in strollers. I recall one moment when I saw an elderly woman who had collapsed to the ground with apparent heart trouble and a group of people had gathered around her to assist.

30. I do not recall seeing anyone carrying weapons on the walk to the Capitol.

31. As we walked, I noticed an apparent lack of police officers and members of the media following or covering the crowd. It struck me as conspicuous that I did not see police or media alongside this massive movement of people.

32. Our walk to the Capitol took about 45 minutes to an hour, during which time I interviewed several dozen people. The people I spoke to said similar things to the people I interviewed before I went into the Ellipse to hear President Trump speak. They said how they were there because they were concerned about the Constitution and maintaining its integrity, which is reflected in videos I took of some of these conversations. Exhibit 20. None of these people showed any intent to be violent or to interrupt the congressional proceedings. To the contrary, many of them said they were eager for the election certification proceedings to happen uninterrupted because they believed the representatives were voting to delay the certification.

The crowd at the Capitol was milling around and peaceful.

33. We finished our walk and arrived at the Capitol at roughly 2:20 pm.

34. We were surprised and confused that there were not more stages and speeches at the Capitol because of what we had heard from people at the Ellipse.

35. We arrived at the front of the Capitol, toward the back of the crowd. The crowd before us was massive. We did not see or hear any signs of violence when we arrived, all we heard was the dull roar of the crowd because of its size. The people in the crowd were generally milling around and talking with one another; there was nothing noteworthy happening. Videos I took of the crowd show its tremendous size and how the people in the crowd were just standing around calmly and enjoying the day, participating in patriotic chants, having relaxed conversations with one another, or using their phones. Exhibits 21 (<https://dhillonlaw.box.com/s/aseaxx1t4bdfsol9wofnrslufhtyfg1u>), 22 (<https://dhillonlaw.box.com/s/uk2gx8flmvtcwatu4y49yhyprvvuzdgg>). The videos I took do not show any violence or aggression in the crowd.

36. We made our way up to some scaffolding that was in the midst of the crowd, further toward the Capitol. We went to the left of the scaffolding and stayed in that area for about 90 minutes. I steered my family clear of the scaffolding itself because I did not trust that it could bear the weight of the people on it and did not want my family near it in case it collapsed. The videos I took from this position have a great angle showing the extent of the crowd and how joyous and peaceful it was, with people moving around calmly, chatting with one another, and having fun. Exhibit 21, 22.

37. I was able to record a beautiful moment of people on the scaffolding unfurling a massive American flag while the thousands of people in the surrounding crowd enthusiastically cheered, celebrated, and spontaneously broke out into chants of “USA” and a recitation of the Pledge of Allegiance. Exhibit 22.

38. During the approximately 90 minutes my family and I were in that area to the left of the scaffolding, I interviewed about a dozen people. The majority of the interviewees said

similar things to the people I spoke to outside the Ellipse and on the walk to the Capitol. Like the other people I spoke to earlier in the day, these people said they were there for peaceful purposes to support President Trump and bolster the legislators to vote against certification. In a video of one of these interviews, a kindly gentleman from Mississippi explicitly stated that he had no interest in violence. Exhibit 23

<https://dhillonlaw.box.com/s/5os1nfowpj39abkeygtnu44chwvlcjnm>).

39. None of the people I interviewed described any violence or vandalism that they either witnessed or partook in while at the Capitol.

40. While at the Capitol, I did start to see some suspicious and off-putting people who did not look like the clean-cut, happy, and joyous people who made up the crowd outside the Ellipse, at the speech, and on the walk over. I spoke with one man who had no teeth and seemed unwell, who was there with a group of similar people.

41. At the Capitol was also the first time I recall seeing a group of people, other than police, wearing tactical gear. These people stood out from the rest of the crowd and were unlike anyone I saw in the crowd before arriving at the Capitol. I spoke with one young man in tactical gear and noticed several odd things about him. The gear looked brand-new, like it had never been used before, and he had many zip ties with him, which stood out to me as highly suspicious. When I interviewed him, he spoke vaguely and oddly to me, saying that he was there with his mother.

42. At the Capitol was also the first time I saw what looked like groups of people dressed in conspicuously dark clothing together. They were dressed similarly to the man with the bullhorn I saw outside the Ellipse who had encouraged people to enter the Capitol. These people too were utterly unlike the rest of the crowd I had seen outside the Ellipse, at President Trump's

speech, or on the walk to the Capitol. In addition to the clothing of the people in these groups standing out from the crowd at the Ellipse and on the walk over, these people wore many more masks, dark sunglasses, or neck gators pulled over their noses, obscuring their identities. While a few individuals wore those kinds of items scattered throughout the crowd at the Ellipse or on the walk over, the vast majority did not. These people at the Capitol therefore stood out as distinct from the Ellipse crowd.

43. In total, during my time at the Capitol, I recall seeing about 60 suspicious people like those described above, who did not fit in with the rest of the tens of thousands of people in the crowd that had been at the Ellipse and had walked over. They were a tiny number of people compared to the truly staggering crowd gathered at the Capitol, but they stood out to me when I saw them peppered throughout the crowd while my family and I were standing to the left of the scaffolding for about 90 minutes.

44. Despite seeing a few of these suspicious characters while at the Capitol, at no point did I observe any violence, vandalism, or breaking and entering into the Capitol. I did not see any violent people or fights between members of the crowd and the police. During my time at the Capitol, all that I witnessed was thousands upon thousands of people milling around and enjoying the day, with a relatively small handful of odd people among them. I did see a few police in riot armor walk by at one point, but they were moving at a calm pace without any look of aggressive intent about them, and I did not see them engaged in any violence.

45. I did speak to some people who said they had been inside the Capitol, but none of them said anything indicating they did so by breaking and entering, or that they had seen any violence.

46. We did see some tear gas from a distance and could smell it, but based on how we had neither seen nor heard of any violence, we thought it was just a generic crowd control measure by the police for dealing with a large and potentially rowdy crowd and not a response to actual violence.

On the walk home, I saw suspicious people but the FBI had no interest in them.

47. Around 4:00 pm, my family was cold and tired and wanted to go home, so we started to walk back to the rental house.

48. The rental house was on the opposite side of the Capitol from where we had been standing, so we had to head around the side and rear of the Capitol.

49. As we were moving past the rear side of the Capitol, we did not see or hear any violence, but we did come across two highly suspicious people. They were a man and a woman in their late 20s/early 30s who were speaking to members of the crowd around them, trying to incite them to violently attack police. They were highly suspicious, claiming they had been tear-gassed and that the crowd around them should go attack police in response. The crowd around them rejected their calls to violence.

50. When their attempt to get the crowd to attack the police failed, the couple walked away from the area toward where I could see tear gas in the distance. This struck me as confusing and suspicious because they had just been complaining that they had been tear-gassed, so I did not understand why they would head toward tear gas again. The couple's conduct was utterly unlike the rest of the crowd I had seen outside the Ellipse, at the speech, and on the walk to the Capitol.

51. The video I recorded of them reflects how suspicious their conduct was, with them cussing freely and acting in a highly aggressive manner, yelling at people to go commit

violence against law enforcement. Exhibit 24

(<https://dhillonlaw.box.com/s/ub5ih5pcxpwzglanm21zdvv4pftxe52>). I did not see anything like that kind of behavior from other members of the crowd from earlier in the day or even around the Capitol, even taking into account the handful of suspicious people I previously described. The only other behavior that was comparable to theirs was the man with the bullhorn from outside the Ellipse who had called for people to enter the Capitol, and whom my video shows was similarly rejected by members of the crowd at large. Exhibits 9, 10. The video I recorded of them reflects my suspicions about them and their intentions at the time I saw them, because they were so out of place with the rest of the crowd I had seen throughout the day. Exhibit 24.

52. Around the same time, I saw the suspicious couple, I saw about 6 men in tactical outfits like the one I saw the young man wearing earlier. I asked some of these men why they had tactical gear and they responded that it was for self-defense in case Antifa showed up to mess with innocent people. These men were friendly and not at all aggressive or hostile to me or anyone else when I spoke to them.

53. As we continued around the Capitol toward the rental house, we came across DEA agents with what looked like undercover officers. Out of respect for these agents and the undercover officers, we turned off our cameras. The DEA agents did not look particularly on-guard or anxious, but instead very calm when I saw them.

54. We continued walking home and came across an FBI unit. I went to speak to them about the couple that had tried to incite the crowd to violence. I was concerned that this couple had tried to get a crowd to turn violent against police and wanted to make sure law enforcement knew what had happened. When I told the FBI agents about the couple's attempts to incite the crowd and asked whether they wanted me to point out the couple or provide information for a

report, they simply declined and were extremely casual about what I told them. This surprised me because I thought they would want to know about suspicious people trying to incite violence against police. After they declined my offer, we continued on.

55. We arrived at the rental house close to 5 pm and were able to complete a trip to the grocery store before the curfew started at 6 pm.

56. When we arrived home, we had no idea that there had been violence at the Capitol. Other than the tear gas in the distance, which we did not think anything of at the time, nothing we had seen and no one we had spoken with had indicated that there had been any violence at the Capitol or conflict between the crowd and the police. At no point in the day did I see anyone other than police with weapons, nor did I see any activity by the crowd or by groups of people that were violent or organized in an aggressive manner. I also did not see any aggressive, worried, or defensive activity by any law enforcement at any point in the day, whether outside the Ellipse, at the speech, on the walk to the Capitol, at the Capitol itself, or on the walk home from the Capitol.

57. My statements here are consistent with the testimony I gave the FBI when they interviewed me regarding my time at the Capitol on January 6th.

FURTHER AFFIANT SAYETH NAUGHT.

Christopher Burgard

STATE OF COLORADO

)

)ss.

COUNTY OF GRAND

)

Subscribed and sworn to before me this 23rd day of January, 2024.

Notarized online using audio-video communication

NOTARY PUBLIC

Joanna Bila
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19974005174
MY COMMISSION EXPIRES MARCH 23, 2025

**BEFORE THE ILLINOIS STATE BOARD OF ELECTIONS
SITTING *EX-OFFICIO* AS THE STATE OFFICERS ELECTORAL BOARD**

STEVEN DANIEL ANDERSON, CHARLES J.)	
HOLLEY, JACK L. HICKMAN, RALPH E.)	
CINTRON, AND DARRYL P. BAKER,)	No. 24 SOEB GP 517
)	
Petitioners-Objectors,)	
)	
v.)	
)	
DONALD J. TRUMP,)	Hearing Officer Clark Erickson
)	
Respondent-Candidate.)	

**RULE 191(B) AFFIDAVIT IN RESPONSE TO
OBJECTORS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Illinois Supreme Court Rule 191(b), David Warrington, being first duly sworn, deposes and states as follows:

1. I currently serve as general counsel for President Trump's presidential campaign committee. I was responsible for ensuring that President Trump's Illinois nominating papers were properly completed and filed with the State Board of Elections on January 4, 2024.
2. I offer this affidavit in response to Objectors' Motion for Summary Judgment.
3. There are material facts essential to a fair resolution of Objectors' motion that ought to appear in affidavits opposing the motion for summary judgment, but that are known only to persons whose affidavits cannot be procured by either the Candidate or the Campaign by reason of hostility or otherwise.
4. No discovery has been permitted with respect to the Objections, which were filed on January 4 and are to be resolved by the Election Board on January 30, 2024. Given the abbreviated and expedited nature of these proceedings, the Candidate and Campaign's inability

Exhibit E

to compel testimony, and other circumstances, neither the Candidate nor the Campaign have been able to procure affidavits from (or testimony by) these witnesses.

5. Based upon the Candidate and Campaign's investigation and review of relevant documents, video and other materials, including documents and video the Objectors reference and rely on, the proffered testimony would establish that material facts on which the Objectors rely are in fact disputed, which would require denial of Objectors' motion for summary judgment:

6. The names of witnesses, their likely testimony, the reasons the Candidate and Campaign believe they will testify in the manner described, and the reasons for the inability to procure their testimony, are as follows:

a. Mark Meadows, White House Chief of Staff during the events of January 6, 2021. Mr. Meadows would likely testify that (1) President Trump authorized the deployment of 10,000 to 20,000 National Guard Troops (as evidenced by testimony from Mr. Kash Patel on November 1, 2021 in Denver District Court), (2) President Trump and his staff took reasonable precautions to ensure no speakers at the Ellipse on January 6, 2021, would be likely to make incendiary comments that could be construed as incitement a call to violence (as evidenced by testimony from Ms. Katrina Pearson on November 1, 2021 in Denver District Court), and (3) President Trump was told in advance of January 6, 2021, by military officials that the U.S. Department of Defense had adequate plans and resources to address any disturbances on January 6, 2021, (as evidenced by Kash Patel's Colorado testimony and by the official Inspector General Report that investigated Department of Defense actions on January 6, 2021). Mr. Meadows is unwilling to testify because he is currently accused of crimes stemming from his involvement in events before and on January 6, 2021.

b. Mayor Muriel Bowser, current Mayor of Washington, D.C., and mayor during the events of January 6, 2021. She would likely testify that (1) the U.S. Army offered to augment city law enforcement with 10,000 to 20,000 National Guard troops for security on January 6, 2021, (as disclosed in Mr. Kash Patel's testimony on November 1, 2021 in Colorado District Court), (2) she was unwilling to allow more than 346 members of the National Guard to be deployed on January 6, 2021, (as evidenced by her formal letter to President Trump days before January 6, 2021), (3) she delayed requesting additional National Guard troops until mid-afternoon on January 6, 2021, (as evidenced by Mr. Kash Patel's testimony), and (4) that she delayed a public alert message ordering the public to vacate the Capitol Grounds until late afternoon on January 6, 2021 (as evidenced by testimony from Mr. Tom Bjorklund on November 2, 2023). She is unwilling to voluntarily testify due to her political animosity towards President Trump and because her testimony would reveal her own culpability in law enforcement's failure to properly respond to violence on January 6, 2021.

c. General Mark Milley, former Chairman of the Joint Chiefs of Staff and Chairman during the events of January 6, 2021. General Milley would likely testify that President Trump authorized the deployment of 10,000 to 20,000 National Guard troops on January 6, 2021, as evidenced by testimony from Mr. Kash Patel and the results of the Inspector General investigation into Department of Defense actions. He is unwilling to testify on behalf of President Trump due to the political and public nature of this litigation.

d. The operators of the magnetometers at the Ellipse on January 6, 2021. The current names and addresses of these individuals are unknown. They would likely testify that the vast majority of attendees at the Ellipse on January 6, 2021, possessed no dangerous items, and that they did not find a single firearm or deadly weapon, as evidenced by conclusions made by the

January 6 Select Committee. None of them is likely to voluntarily testify due to the political nature of this case and the publicity surrounding it.

e. Steven Sund, Chief of the United States Capitol Police on January 6, 2021. Mr. Sund will likely testify that he promptly requested National Guard troops both before and after violence broke out at the Capitol on January 6, 2021, but that his superiors denied his requests multiple times, as evidenced by his public statements. Mr. Sund has been contacted several times by President Trump's attorneys, but he has refused to return phone calls or electronic mail communications.

f. Ryan McCarthy, Secretary of the Army on January 6, 2021. Like General Milley, General McCarthy would likely testify that President Trump authorized deployment of 10,000 to 20,000 National Guard troops on January 6, 2021, as evidenced by testimony from Mr. Kash Patel and the results of the Inspector General investigation into Department of Defense actions. He is unwilling to testify on behalf of President Trump due to the political and public nature of this litigation.

g. Paul Irving, House Sergeant-at-Arms on January 6, 2021. Mr. Paul Irving will likely testify that he refused to request National Guard troops until late afternoon on January 6, 2021, because he did not perceive the violence at the Capitol to constitute a serious threat, as evidenced by public reports of his actions. Absent compulsion of service, he is unlikely to testify because of the political nature of this case and because his testimony will reveal his own culpability in the violence of January 6, 2021.

h. Michael Stenger, Senate Sergeant-at-Arms on January 6, 2021. Mr Stenger will likely testify that he refused to request National Guard troops until late afternoon on January 6, 2021, because he did not perceive the violence at the Capitol to constitute a serious threat, as

evidenced by public reports of his actions. Absent compulsion of service, he is unlikely to testify because of the political nature of this case and because his testimony will reveal his own culpability in the violence of January 6, 2021.

i. Capitol security guards located in the U.S. House of Representatives, identified by Representative Ken Buck during his testimony in Colorado on November 2, 2023. They would likely testify that at no time were any House members in physical danger, and that normal protocols called for evacuation of Members as a precaution to avoid violence at the Capital, as described by Representative Ken Buck's testimony on November 2, 2021, in Denver District Court. They are unlikely to voluntarily testify because they have been unwilling to publicly come forward, and because of the political nature of the current litigation.

j. Capitol police on East steps of the U.S. Capitol, as identified by Mr. Tom Bjorklund in his testimony on November 2, 2021, in Denver District Court. They would likely testify (1) that they gave protestors permission to climb the Capitol front steps on January 6, 2021, (2) that they perceived the January 6, 2021 demonstrators to be peaceful and not threatening, and (3) that all law enforcement vacated the front steps of the Capitol in order to respond to threats elsewhere, and because demonstrators in front of the Capitol were not perceived to be a threat. This is evidenced by testimony from Tom Bjorklund in Denver District Court on November 2, 2021, that law enforcement gave demonstrators permission to climb the Capitol steps and later abandoned their posts in front of the Capitol. They are unlikely to voluntarily testify because they have been unwilling to publicly come forward, and because of the political nature of the current litigation.

k. Representative Benny Thompson, Chairman of the United States House Select Committee on the January 6 attack. Representative Thompson would likely testify (1) that the

purpose of the House Select Committee was to gather evidence in an attempt to validate the belief shared by him and all other committee members (before their appointment to the Committee) that President Trump incited an insurrection on January 6, 2021 (as evidenced by their public votes in favor of impeaching President Trump and their public statements made well before the Committee was even formed), and (2) that the Committee doctored evidence and encrypted or destroyed evidence that it had collected (as evidenced by recent news media reports). He is unwilling to voluntarily testify due to his political animosity towards President Trump and because his testimony would reveal the bias and unreliability of the January 6 Report.

7. Given that the substantial involvement of government officials in planning and executing events on January 6, 2021, there are other current government officials, including members of the District of Columbia National Guard, with knowledge of the events of January 6 that the Candidate and Campaign would seek to interview and depose, but the given the abbreviated timeframe of this proceeding would be unable to secure access to those potential witnesses through the Touhy or other required process to obtain such access.

8. These material facts are consistent with my knowledge of the events and circumstances surrounding the events of January 6, 2021, including witness testimony, public reports, and previous discussions that I and others associated with the Candidate and Campaign have had with (or concerning) the witnesses identified above. These material facts are also consistent with documents, video and other materials the Candidate and Campaign's counsel and staff have gathered concerning the events at issue.

9. The complicated nature of these events, along with the volume of documents, video and other material, demonstrates the unfairness of resolving Petitioners' Objections as part of an expedited and abbreviated proceeding that attempts to determine the nature and

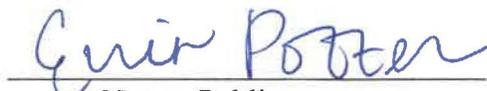
significance of the events of January 6, 2021 without first providing the Candidate a full and fair opportunity to conduct discovery and subpoena and depose witnesses, including by securing the testimony described herein via affidavit, deposition, or otherwise.

FURTHER AFFIANT SAYETH NAUGHT.



David Warrington

Subscribed to and sworn before me
This 23 day of January, 2024



Erin Bethany Potter
Notary Public



CERTIFICATE OF SERVICE

I, Adam P. Merrill, hereby certify that before 6:10 p.m. on January 23, 2024, I caused a true and correct copy of the foregoing OPPOSITION TO OBJECTORS' MOTION FOR SUMMARY JUDGMENT (with Exhibits) to be served via email as follows:

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/s/ Adam P. Merrill

Adam P. Merrill