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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-61511-CV-ZLOCH

CAROL WILDING, et al.,

Fort Lauderdale, Florida

Plaintiff(s),

August 23, 2016

vs.

DNC SERVICES CORPORATION,
d/b/a, DEMOCRATIC NATIONAL
COMMITTEE, et al.,

Defendant(s).

MOTION HEARING
BEFORE THE HONORABLE WILLIAM J. ZLOCH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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RICARDO VILLALBA CABRAL

BY MR. O'BRIEN	22		30	
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BY MR. SPIVA		25		
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DEFENDANTS' EXHIBITS	PAGE
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1 and 2	40
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1 Thereupon,
2 the following proceedings began at 10:59 a.m.:

3 THE COURT: Good morning. Please be seated.

4 Calling case No. 16-61511-Civil. Counsel, would you
5 note your appearances.

6 MR. O'BRIEN: Good morning, Your Honor. Cullin
7 O'Brien for the plaintiffs.

8 MR. HERNANDEZ: Antonio Hernandez for the plaintiffs,
9 Judge.

10 MS. BECK: Elizabeth Beck for the plaintiffs.

11 MR. BECK: Jared Beck for the plaintiffs.

12 THE COURT: Good morning.

13 MR. SPIVA: Good morning, Your Honor. Bruce Spiva
14 from Perkins, Coie for the DNC and Congresswoman Debbie
15 Wasserman Schultz.

16 THE COURT: Good morning.

17 MR. THOMAS: Gregg Thomas on behalf of both the
18 defendants.

19 THE COURT: Good morning. Please be seated.

20 MR. O'BRIEN: Thank you, Your Honor.

21 THE COURT: We are here this morning pursuant to the
22 defendants' motion which the Court -- the defendants' motion to
23 dismiss which the Court has considered a motion to quash
24 service of process. The Court has set an evidentiary hearing
25 on the motion to quash. Is the plaintiff ready?

1 MR. O'BRIEN: Yes, Your Honor. I apologize for being
2 late. We were outside getting some stipulations to try to move
3 this along.

4 THE COURT: That is fine.

5 MR. O'BRIEN: May I present some of the stipulations
6 to Your Honor?

7 THE COURT: Sure. Go right ahead.

8 MR. O'BRIEN: Thank you, Your Honor.

9 So we plan to show Your Honor a video of the service
10 of process event. The defendants stipulate to it coming in,
11 admissibility, except there are some statements that are made
12 by the people on the video that the defendants want not
13 considered by this Court. We would have no objection to that.

14 THE COURT: That is fine.

15 MR. O'BRIEN: And then we have a witness -- I'm sorry.

16 THE COURT: Just a moment. Has the video been marked
17 as a plaintiffs' exhibit? Is it a CD or DVD?

18 MR. O'BRIEN: It's on a jump drive.

19 THE COURT: Okay. And that is going to have to be
20 marked as Plaintiffs' No. 1.

21 MR. O'BRIEN: Yes, Your Honor, Plaintiffs' 1.

22 THE COURT: Any objection?

23 MR. SPIVA: No objection, Your Honor, assuming this is
24 the YouTube video because there are some other video exhibits
25 that I understand the plaintiffs are intending to --

1 MR. O'BRIEN: I think you mean Facebook. I think you
2 may have it reversed.

3 MR. SPIVA: I thought you were talking about the
4 YouTube. Assuming we are talking about the Facebook Live
5 stream, we don't have objection to that with the exception
6 of --

7 THE COURT: The statements.

8 MR. SPIVA: There's some verbiage about the DNC has
9 accepted service. That is our objection to that.

10 THE COURT: You can point that out to the Court during
11 the video.

12 MR. SPIVA: Will do, Your Honor.

13 THE COURT: That's fine. Plaintiffs' 1, being a thumb
14 drive, is in evidence.

15 (Thereupon, Plaintiffs' 1 received in evidence.)

16 MR. O'BRIEN: Thank you, Your Honor. The second
17 stipulation, Your Honor, would be a police report regarding the
18 death of the process server as well as an email confirming same
19 to plaintiffs' counsel. The defendants do not object to that
20 coming into evidence.

21 THE COURT: All right. And what exhibit number is
22 that?

23 MR. O'BRIEN: May we make that, Your Honor, Exhibits 2
24 and 3?

25 THE COURT: That will be fine.

1 MR. O'BRIEN: Thank you, Your Honor.

2 THE COURT: For the record, Plaintiffs' 2 is?

3 MR. O'BRIEN: The police report that was attached to
4 our response. I don't want to mischaracterize it, but we would
5 say it's a police report of the death of the process server.

6 THE COURT: All right. That is Plaintiffs' 2. Is
7 there any objection?

8 MR. SPIVA: No objection, Your Honor. My
9 understanding is it's being offered to show his availability.

10 THE COURT: Plaintiffs' 2 is in evidence.

11 (Thereupon, Plaintiffs' 2 received in evidence.)

12 THE COURT: And Plaintiffs' 3?

13 MR. O'BRIEN: Your Honor, it would be an email from
14 the D.C. police attaching the police report to plaintiffs'
15 counsel confirming that the death report is a person by the
16 name of Shawn Lucas.

17 THE COURT: Any objection?

18 MR. SPIVA: No objection, Your Honor.

19 THE COURT: Plaintiffs' 3 is in evidence.

20 (Thereupon, Plaintiffs' 3 received in evidence.)

21 MR. O'BRIEN: With respect to what is going -- what we
22 ask Your Honor to consider on the video, the defendants have
23 stipulated that the woman towards the end of the video is
24 Ms. Rebcca Herries. And they have also stipulated that the
25 gentleman who is bald is the Shawn Lucas that is in the police

1 report.

2 THE COURT: Okay.

3 MR. O'BRIEN: So that takes care of a bunch of
4 exhibits.

5 THE COURT: Fine.

6 MR. O'BRIEN: And then we do have a dispute, Your
7 Honor, on the last exhibit. It would be an email that was
8 obtained on Wikileaks. I believe the defendant -- I'll let the
9 defendants state their position, but the nature of the dispute,
10 as I understand it, the defendants --

11 THE COURT: Would you be offering this email?

12 MR. O'BRIEN: I want to offer it. And I don't want to
13 just offer it just to show that Rebecca Herries was the special
14 assistant to the then CEO. The purpose that I want to offer it
15 for is that we believe the email speaks for itself. It shows
16 Ms. Herries organizing a staff-wide meeting.

17 And our argument would be, based on that, that
18 Ms. Herries is someone who would have that sort of authority to
19 accept service. That would be the purpose for which we would
20 want to issue the -- have the email into evidence.

21 But there is a dispute. They object to it coming into
22 evidence. They would stipulate that Ms. Herries is the special
23 assistant -- was the special assistant to the then CEO of the
24 DNC, but beyond that --

25 THE COURT: Just slow down a little bit. Take a deep

1 breath.

2 MR. O'BRIEN: Sorry, Your Honor, too much coffee.

3 THE COURT: That's all right. Slow down for the court
4 reporter. Finish your statement though.

5 MR. O'BRIEN: Thank you, Your Honor. The defendants
6 would at least stipulate that Ms. Herries at the time of the
7 disputed service of process event was the special assistant to
8 the then CEO. But beyond that, they object to anything else.
9 So we may ask Your Honor to rule in advance about the email or
10 however Your Honor wants to handle that.

11 THE COURT: All right. Do you want to have that
12 marked as an exhibit? You would intend to offer it if allowed?

13 MR. O'BRIEN: Yes, Your Honor.

14 THE COURT: And that would be Plaintiffs' 4?

15 MR. O'BRIEN: 4, Your Honor.

16 THE COURT: And this is an email from?

17 MR. O'BRIEN: Ms. Herries.

18 THE COURT: To?

19 MR. O'BRIEN: Staff at the DNC.

20 THE COURT: First of all, let me see the email.

21 MR. O'BRIEN: Yes, Your Honor. May I approach?

22 THE COURT: Yes.

23 MR. O'BRIEN: Okay. This is --

24 THE COURT: Show it to counsel.

25 MR. O'BRIEN: Is this okay?

1 MR. SPIVA: It's the one that you gave us? Yes.

2 MR. O'BRIEN: Okay. Thank you.

3 Your Honor, the demarcation is when we had submitted
4 our exhibit list, it was a different exhibit.

5 THE COURT: That's all right. First of all, you will
6 need to remark this. Do you have stickers?

7 MR. O'BRIEN: We do, Your Honor. We have a clean
8 copy.

9 THE COURT: What would be the objection?

10 MR. SPIVA: Well, Your Honor, there are at least two
11 that I just note, first of all, that we would stipulate that
12 she was the special assistant to the then CEO, and that's the
13 only real purpose that I think this email could serve. Our
14 objections are as follows:

15 One, this email was stolen, and there is case law that
16 even if -- you know, counsel, obviously we are not suggesting
17 that they stole the email, but Wikileaks obtained it from a
18 stolen source, that it is still a confidential email, and it
19 shouldn't be permitted to be used. There is an ACLU case out
20 of the District of Columbia that holds that and --

21 THE COURT: Do you have that cite?

22 MR. SPIVA: Yes, Your Honor. Can I get it to you in
23 just a minute? I think I might need to consult an electronic
24 device, Your Honor. I apologize.

25 Second basis, Your Honor, there is really no way to

1 authenticate this, I don't think, with any of the people that
2 are on their witness list. And also it's hearsay. So we would
3 have those objections as well.

4 Mainly I don't see why they need it. We are willing
5 to stipulate that that was, in fact, her title, special
6 assistant to Ms. Dacey.

7 THE COURT: Any reply to those objections?

8 MR. O'BRIEN: Yes, Your Honor. I will start with the
9 caveat that I have not seen the D.C. case or in West Law. I
10 searched Wikileaks and I couldn't find a case on this. So I
11 don't know -- I think this may be a first impression as to
12 whether something like this could come in based on the
13 allegation that it's stolen; although, we don't have proof it's
14 stolen. But we wanted Ms. Herries here.

15 THE COURT: I understand.

16 MR. O'BRIEN: We asked them to bring Ms. Herries here
17 so we can cross-examine her or take her testimony. We don't
18 have her.

19 THE COURT: But they were not required to do that.

20 MR. O'BRIEN: They were not required and she's outside
21 the subpoena power. We wanted to establish, because it's our
22 burden, that Ms. Herries had the authority. This email, not
23 only shows that she was the special assistant which they
24 stipulated to in their motion to quash, but she's organizing --

25 THE COURT: Well, they stipulated to it here today.

1 MR. O'BRIEN: Here today, yes, Your Honor, they
2 stipulated to it here today. In this email, we would be
3 offering it, not just for that purpose, but because it appears
4 that she's organizing a DNC-wide meeting in the Wasserman
5 conference room.

6 So our argument would be, based on that, that she is
7 the kind of person, if she's organizing a meeting for the
8 entire DNC in the Wasserman conference room, then she's someone
9 with authority to come down and get service on Debbie Wasserman
10 Schultz and the DNC. That would be the argument we would make.

11 As far as hearsay, I think it would be non-hearsay
12 because it would be an admission. We cited in our exhibit list
13 Rule 801(d)(2). Alternatively, it's a hearsay exception under
14 Rule 803, subsection 6. I think it's a business record. I
15 think it's self-authenticating. And the only way we could
16 think to try to get it in would be to have our two witnesses
17 say they went to Wikileaks which they did, typed in Becca
18 Herries which they did, and saw this exhibit on Wikileaks. I
19 mean, I don't know how else to get it in other than to say that
20 someone went to the internet which is what happened. That
21 would be our way to try to get it in.

22 THE COURT: I am going to reserve on Plaintiffs' 4 at
23 this point. I am going to reserve ruling on it.

24 MR. O'BRIEN: Thank you, Your Honor.

25 THE COURT: Let me just ask for a clarification so

1 that the record is clear. Do you have an extra copy of
2 Plaintiffs' 4?

3 MR. O'BRIEN: May I give you a clean copy, Your Honor?

4 THE COURT: You hold on to the clean copy because this
5 is not marked other than the exhibit number that is not
6 pertinent right now. So you hold on to the plain copy.

7 MR. O'BRIEN: Thank you, Your Honor.

8 THE COURT: Just make sure you mark them with the
9 appropriate exhibit sticker, all the exhibits.

10 I have reviewed the complaint and the first amended
11 complaint.

12 Counsel, go ahead and be seated.

13 MR. SPIVA: Thank you, Your Honor.

14 THE COURT: I have reviewed the complaint and the
15 first amended complaint. Is it the plaintiffs' position that
16 Congresswoman Schultz is being sued individually and not in her
17 capacity as then the chair of the DNC?

18 MR. O'BRIEN: May I consult with my colleagues? I
19 think -- I need to make sure that I get this answer right, Your
20 Honor.

21 THE COURT: Because if you read the complaint and the
22 first amended complaint and in particular page 20 of the first
23 amended complaint -- but go ahead, consult with your counsel.

24 MR. O'BRIEN: Thank you, Your Honor.

25 MR. SPIVA: Would it be all right if I consult my

1 electronic device to get you that cite while they are
2 conferring?

3 THE COURT: Go right ahead.

4 MR. SPIVA: Thank you.

5 MR. O'BRIEN: Your Honor, thank you. I think Your
6 Honor is referring to paragraph 154 on page 20.

7 THE COURT: Well, paragraph 154 in particular.

8 MR. O'BRIEN: I think we would take the position that
9 our complaint is suing Ms. Wasserman Schultz in her individual
10 capacity.

11 THE COURT: Okay.

12 MR. O'BRIEN: She happened to be a chairperson, but
13 this is in her individual capacity, Your Honor.

14 THE COURT: All right. Because obviously that
15 capacity would affect the service of process analysis.

16 MR. O'BRIEN: I think Your Honor could reasonably
17 state that because it's in her individual capacity, maybe we
18 had to treat her -- go to her house or something like that.
19 But we would be taking the argument that, because she was DNC
20 chair at the time, that that was a good place to serve her.
21 And beyond that, based on what Ms. Herries said, she accepted
22 service on behalf of --

23 THE COURT: No, I understand. We will get to the
24 argument at a later point. But for the purposes of the record,
25 just so the record is clear, Congresswoman Schultz is being

1 sued in her individual capacity?

2 MR. O'BRIEN: Yes, Your Honor, in the first amended
3 complaint, Your Honor.

4 MR. SPIVA: May I be heard on that briefly, Your
5 Honor?

6 THE COURT: Yes.

7 MR. SPIVA: Our understanding up until now is that she
8 was being sued in her corporate capacity.

9 THE COURT: That is why I asked for the clarification.

10 MR. SPIVA: So this is kind of the first time we are
11 learning this as well, so I just wanted to make that point --

12 THE COURT: Counsel, go ahead.

13 MR. O'BRIEN: -- with the argument.

14 THE COURT: Are we finished with exhibits?

15 MR. O'BRIEN: We are finished with exhibits, Your
16 Honor. May I discuss the witnesses?

17 THE COURT: Go right ahead.

18 MR. O'BRIEN: Thank you, Your Honor.

19 MR. SPIVA: Your Honor, sorry to interrupt. I did
20 find the cite that I was looking for. One of the reasons we
21 didn't have this in our reply brief is we didn't know this was
22 going to be one of their exhibits until after we had filed it.

23 THE COURT: That's fine.

24 MR. SPIVA: But the case that I was citing was ACLU
25 versus Department of State, 879 F. Supp. 2d 215, and that's out

1 of the DDC 2012. And that's one of the cases that suggests
2 that --

3 THE COURT: That is out of the D.C. circuit?

4 MR. SPIVA: Yes. Well, it's the district court in
5 D.C., yeah.

6 THE COURT: District court case?

7 MR. SPIVA: Correct, Your Honor.

8 THE COURT: Okay.

9 MR. SPIVA: And the case where the ACLU sought to
10 obtain some documents that had been published on Wikileaks that
11 the government contended had been stolen or leaked, and the
12 court said, you know, that you couldn't -- that the ACLU
13 couldn't obtain those documents or use those documents despite
14 that they were public.

15 THE COURT: I will take a look at that. Thank you.

16 MR. O'BRIEN: Your Honor, may we on our side be able
17 to respond to this case?

18 THE COURT: Sure.

19 MR. O'BRIEN: I don't want to give Your Honor an
20 impression that we are trying to make Your Honor rule
21 inconsistent with the case, but I want to see this case and --

22 THE COURT: That's fine.

23 MR. O'BRIEN: Thank you.

24 THE COURT: All right. Are you ready to proceed with
25 the evidentiary phase of the trial?

1 MR. O'BRIEN: Yes, Your Honor. One stipulation on
2 witnesses and then one manner of disagreement on witnesses.

3 THE COURT: Go right ahead.

4 MR. O'BRIEN: Our first witness we would like to call
5 is Ricardo Villalba, and he was the videographer. I don't
6 believe there is any objection to him testifying by the
7 defendants.

8 THE COURT: Any objection?

9 MR. SPIVA: No blanket objection to his testifying,
10 Your Honor. I mean, obviously we would have to see what he
11 says. But, yes, we don't have an objection, a blanket
12 objection.

13 THE COURT: Let me just ask you this for a convenience
14 of time standpoint. If there is no objection to the video, do
15 you think you still need the witness?

16 MR. O'BRIEN: We wanted to be very careful. Because
17 it's our burden, we wanted as many witnesses as we could
18 possibly have. We wanted the security guards. We wanted
19 Ms. Herries. We brought him in the abundance of caution.

20 I do agree with Your Honor that much of what the
21 witness will say will be apparent on the video. But in case
22 Your Honor had any questions or in case there's just context we
23 wanted to give Your Honor for why he was there but, yeah, since
24 the video is now in evidence, there is very little that would
25 be helpful. However, in an abundance of caution, he flew down

1 from D.C. for this hearing, so we wanted to make him available
2 and we intended to call him.

3 THE COURT: If you wish to, go right ahead, or you can
4 have him -- obviously he will be here throughout the hearing.
5 If anyone has any questions regarding the video, he could be
6 called to the witness stand. But proceed in whatever fashion
7 you would like to.

8 MR. O'BRIEN: Thank you, Your Honor. The second
9 witness would be the first named plaintiff, Ms. Carol Wilding,
10 who is here. The defendants object to her testifying. We
11 would want her to testify in case it was needed to show that
12 she watched the live stream. The video of service of process
13 event was on live stream on Facebook, and she watched it in
14 case -- because it's our burden to give a different perspective
15 of what was happening and to testify she didn't hear anything
16 inconsistent with what's on the video. This is in an abundance
17 of caution. I understand that we don't want to duplicate or
18 take up Your Honor's time unnecessarily, but we wanted to make
19 sure we had as many witnesses as possible here.

20 THE COURT: The video obviously speaks for itself,
21 correct?

22 MR. O'BRIEN: Yes, Your Honor.

23 THE COURT: And what is on the video is on the video.

24 MR. O'BRIEN: Yes, Your Honor.

25 THE COURT: And Ms. Wilding would not testify as to

1 anything different, correct?

2 MR. O'BRIEN: Yes, Your Honor.

3 THE COURT: So do you think that you still need her as
4 a witness?

5 MR. O'BRIEN: No, Your Honor. Now that there is a
6 stipulation of the video into evidence, I -- oh, the other
7 thing would be to bring in that Wikileaks either through the
8 first witness or the second witness. We were prepared to have
9 them say, because it's true, they went to Wikileaks, and that's
10 how we would get the exhibit in.

11 THE COURT: Regarding Plaintiffs' 4 --

12 MR. O'BRIEN: Correct, Your Honor.

13 THE COURT: -- the email?

14 MR. O'BRIEN: Yes, Your Honor.

15 MR. SPIVA: Your Honor, we don't think she's a
16 competent witness to testify to either of those things. I
17 mean, she didn't take the video. At least Mr. -- and I don't
18 want to butcher his name, Mr. Villalba.

19 MR. O'BRIEN: Villalba.

20 MR. SPIVA: Villalba, thank you. You know, he
21 apparently took the video and I assume was going to testify to
22 that. But she didn't take the video. They are just saying she
23 watched it which means that if she's a competent witness to
24 testify to what's in the video, anyone in America really who
25 saw the video would be a competent witness. So we would object

1 to that, Your Honor.

2 And as far as the Wikileaks document, again, she
3 didn't create the document. She didn't receive the document.
4 She's just saying she pulled it up on Wikileaks. And so we
5 don't think she's competent to testify to that either.

6 THE COURT: Well, if you want to call the witness with
7 respect to whatever she did at Wikileaks, feel free to do that.
8 You can call that witness whenever you wish to. If you want to
9 go forward with the video first, that is up to you.

10 MR. O'BRIEN: Thank you, Your Honor. We would like to
11 go forward with the video first. And my colleague Ms. Beck is
12 going to play the video if Your Honor would allow it.

13 THE COURT: Fine.

14 MR. O'BRIEN: Thank you, Your Honor.

15 THE COURT: This is Plaintiffs' 1. Take your time.
16 If you need assistance, we have our technical assistant here.

17 (Thereupon, the videotape was played.)

18 MR. O'BRIEN: Your Honor, for the record, that was
19 Plaintiffs' Exhibit 1.

20 And now Ms. Beck will be playing Plaintiffs' Exhibit 2
21 if Your Honor would allow it.

22 THE COURT: Which is a continuation of the video?

23 MR. O'BRIEN: Yes, Your Honor. There is a
24 couple-minute gap in it.

25 THE COURT: All right. But we are still on

1 Plaintiffs' 1, for the record.

2 MR. O'BRIEN: It's a composite 1. I apologize, Your
3 Honor.

4 THE COURT: That's all right, because Plaintiffs' 2 is
5 a police report.

6 MR. O'BRIEN: I apologize, Your Honor.

7 THE COURT: That's all right. Don't worry about it.

8 MR. O'BRIEN: Yes, Your Honor.

9 (Thereupon, the videotape was played.)

10 MR. O'BRIEN: Your Honor, that completes Exhibit 1.
11 And we have offered that into evidence. I would like to offer
12 into evidence as well Plaintiffs' Exhibits 2 and 3.

13 THE COURT: All right. Now, already in evidence is
14 Plaintiffs' 1, composite 1, being the thumb drive.
15 Plaintiffs' 2 and Plaintiffs' 3 are in evidence. The Court has
16 reserved on Plaintiffs' 4.

17 MR. O'BRIEN: Thank you, Your Honor.

18 I would like to call Mr. Villalba, Ricardo Villaba.

19 THE COURT: Fine.

20 Please step up to the witness stand.

21 THE WITNESS: Good morning, Your Honor -- or good
22 afternoon.

23 THE COURT: Please remain standing and raise your
24 right hand.

25

1 RICARDO VILLALBA CABRAL

2 Having been first duly sworn on oath, was examined and
3 testified as follows:

4 THE COURT: Thank you. Please be seated. You can
5 adjust that microphone. Please speak directly into it. Please
6 state your full legal name for the record and spell your last
7 name for the reporter.

8 THE WITNESS: My first name is Ricardo, R-I-C-A-R-D-O.
9 Do I have to give my middle name too or --

10 THE COURT: No, just your last name.

11 THE WITNESS: My last name, I have two last names,
12 Villalba Cabral. The first last name is spelled
13 V-I-L-L-A-L-B-A, and my second last name is C-A-B-R-A-L.

14 THE COURT: Thank you. You may proceed.

15 MR. O'BRIEN: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. O'BRIEN:

18 Q Good morning, sir.

19 A Good morning.

20 Q Sir, where do you live?

21 A I live in Washington, D.C.

22 Q How long have you lived there?

23 A For about 20-plus years.

24 Q What is your profession?

25 A I am a substance abuse case manager for youth. I'm also

1 filmmaker, you know.

2 Q You saw the video that was played here in court, sir?

3 A Yes, I did.

4 Q Was that you recording on the video, sir?

5 A Yes.

6 Q Was that you recording both the first video that stopped
7 and the second video?

8 A Yes, it was me.

9 Q Sir, what day of the week, if you recall, and year was
10 that video taken?

11 A It was Friday, July 1st of 2016, of this year.

12 MR. O'BRIEN: Your Honor, I would like to show the
13 witness what has been marked for identification purposes only
14 Plaintiffs' Exhibit 4.

15 May I approach the witness?

16 THE COURT: Fine. Go ahead.

17 MR. O'BRIEN: Thank you.

18 THE COURT: That is the email?

19 MR. O'BRIEN: Yes, Your Honor.

20 BY MR. O'BRIEN:

21 Q Sir, I have handed you what has been marked for
22 identification purposes only as Plaintiffs' Exhibit 4. Do you
23 see that document?

24 A Yes, I do.

25 Q Do you recognize the document?

1 A Yes, I do recognize it.

2 Q What is the document?

3 MR. SPIVA: Objection, Your Honor. He hasn't laid any
4 foundation that he would have a basis to answer that question.

5 THE COURT: He is allowed to try to identify the
6 document.

7 What is the document that you are looking at, sir?

8 THE WITNESS: It is an email from Becca Herries to the
9 staff at the DNC headquarters.

10 BY MR. O'BRIEN:

11 Q Sir, how do you know that?

12 A I went into Wikileaks and I searched Becca Herries, and
13 this is what came up. And I read it, and it seems that it's an
14 email.

15 MR. SPIVA: I don't want to keep interrupting, Your
16 Honor. I'll just say objection, lack of foundation, hearsay.

17 THE COURT: It hasn't been offered yet.

18 MR. SPIVA: Okay.

19 BY MR. O'BRIEN:

20 Q The exhibit that is in your hand, are you testifying that
21 you saw that by doing a search under Becca Herries at the
22 Wikileaks database?

23 A Yes.

24 MR. O'BRIEN: Your Honor, I would like to offer
25 Plaintiffs' Exhibit 4 into evidence.

1 MR. SPIVA: Same objections, Your Honor.

2 THE COURT: I am going to reserve on Plaintiffs' 4 at
3 this point.

4 MR. O'BRIEN: Your Honor, may I consult with my
5 co-counsel to see if we have further questions from the
6 witness?

7 THE COURT: Yes, sir. Take your time.

8 MR. O'BRIEN: Thank you.

9 Your Honor, for the purposes of direct, I have no
10 further questions.

11 THE COURT: Cross-examination?

12 MR. SPIVA: Yes, Your Honor. Thank you.

13 CROSS EXAMINATION

14 BY MR. SPIVA:

15 Q Good morning. It's still good morning, Mr. Villalba --
16 sorry, Villalba Cabral. Did I get that right?

17 A You're close.

18 Q All right. Thank you, sir. So on the video that you
19 took, one of the things that you said was that you didn't
20 expect to find many people at the DNC that day, is that
21 correct?

22 A That is correct.

23 Q And that was because it was the Friday before the July 4
24 holiday weekend, correct?

25 A That is correct.

1 Q And you, in fact, noticed, I think you noted on the video,
2 that there weren't a lot of people around, fair?

3 A That is correct.

4 Q Okay. And, sir, you didn't fill out either of the
5 affidavits of service in this case, did you?

6 A No, I didn't.

7 Q And you weren't there that day serving as a process
8 server, were you?

9 A No, I wasn't.

10 Q Okay. You were there and you saw when the woman who
11 identified herself as Becca came down from upstairs, correct?

12 A That's correct.

13 Q And you didn't ask her her last name, did you?

14 A No, I didn't.

15 Q And you didn't hear Mr. Lucas ask her her last name,
16 correct?

17 A Correct.

18 Q And she didn't provide her last name to either of you,
19 correct?

20 A No, she didn't.

21 Q And she didn't provide her title either, did she?

22 A No, she didn't.

23 Q She didn't say that she had authority to accept service of
24 process, did she?

25 MR. O'BRIEN: Objection, Your Honor, calls for a legal

1 conclusion.

2 MR. SPIVA: I asked what she said.

3 THE COURT: I'll overrule the objection.

4 THE WITNESS: No.

5 BY MR. SPIVA:

6 Q Okay. And she didn't say that she was an officer of the
7 DNC, did she?

8 A No.

9 Q And Mr. Lucas didn't ask her if she was an officer of the
10 DNC, did he?

11 A No.

12 Q And she didn't say that she was a managing agent of the
13 DNC, I take it?

14 A No.

15 Q And, likewise, she didn't say that she was a general agent
16 of the DNC, correct?

17 A Correct.

18 Q And she didn't say that she was the treasurer of the DNC,
19 did she?

20 A No.

21 Q Or the cashier of the DNC?

22 A No.

23 Q Or the secretary of the DNC?

24 A No.

25 Q Or the general manager of the DNC?

1 A No.

2 Q And she didn't say she was a director of the DNC?

3 A No.

4 Q And Mr. Lucas didn't ask her whether she was any of those
5 things, did he?

6 A No.

7 Q Now, she also didn't say that she had authority to accept
8 service of process on behalf of Ms. Wasserman Schultz, did she?

9 MR. O'BRIEN: Objection, Your Honor. The evidence
10 speaks for itself. What she said is what she said, and we
11 would disagree with the characterization, the legal conclusion.

12 MR. SPIVA: I'm just asking what she said.

13 THE COURT: I will overrule the objection.

14 BY MR. SPIVA:

15 Q She didn't say that she had the authority to accept
16 service on behalf of Ms. Wasserman Schultz, did she?

17 A No, she didn't.

18 Q Okay. At some point while you were there -- you were
19 there about 14 minutes, is that fair?

20 A A little bit longer. There was a time lapse between that
21 recording, so yeah, between 14, 16 minutes.

22 Q All told, from the time you went in the building, you kind
23 of came out for a while and went back in, about 16 minutes?

24 A I would say 15 minutes all together.

25 Q And there was a time kind of in the middle there where the

1 security guard, several of the security guards specifically
2 asked you to stop videoing, is that right?

3 A That is correct.

4 Q And you ultimately agreed to stop videotaping, correct?

5 A That's correct.

6 Q In fact, you and Mr. Lucas stepped outside for a short
7 time at that point?

8 A That's correct.

9 Q And you told the individuals who were watching on live
10 stream that you were going to have to stop videotaping because
11 you had been asked by the security guard, correct?

12 A That is correct.

13 Q But then you went back into the DNC a short time later,
14 correct?

15 A Yes.

16 Q And you started videotaping again, did you not?

17 A Yes, I did.

18 Q But you didn't tell the security guards that you had
19 started videotaping again, did you?

20 A That is correct.

21 Q In fact, on the live stream video, there was an update
22 that says we are not going to tell them this time that we are
23 videotaping, we are not going to tell security that we are
24 videotaping, correct?

25 A I believe so.

1 Q And you did that because you knew that they would ask you
2 to leave if you made them aware that you were videotaping
3 again?

4 A That is correct.

5 Q And Mr. Lucas said to you at one point during the
6 encounter at the DNC that anybody in the building can accept
7 the service, the documents, correct?

8 A I believe he said something like that, yes.

9 Q Okay. And he said he had volunteered for the assignment?

10 A Yes.

11 Q Okay. And the reason you were there making the video is
12 because you wanted to be able to tell people -- you wanted to
13 be able to tell people at the DNC, quote, you have been served,
14 correct?

15 A Not me in particular. I know that's what Mr. Lucas wanted
16 to do. I was just commenting to someone. Someone put a
17 comment on the Facebook Live, and I just comment to that. But
18 me in particular, I wasn't there to say any of that.

19 Q Okay.

20 MR. SPIVA: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. O'BRIEN: Yes, Your Honor. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. O'BRIEN:

25 Q Why did you continue videotaping after the security guards

1 told you to stop?

2 A As a filmmaker, I believe that it was necessary to
3 document this event, not just for me, but also for the audience
4 that we have. Prior to tuning out the live streaming, we had
5 over 300 viewers, and I needed to bring closures to them.

6 At the same time, Mr. Lucas and I had a conversation. The
7 building, the DNC building, has several cameras. They
8 videotape us going into the building. They videotape us
9 approaching the building. So there's a lot of cameras in the
10 building as well. So I felt that it was necessary for us to
11 continue videotaping. I didn't see any signs saying that I
12 couldn't videotape.

13 When I first walked in, none of the officers -- the first
14 security officer saw me videotaping. They didn't say nothing.
15 This happened after the other supervisors came out.

16 The reason why I couldn't videotape, I felt it wasn't
17 reading law or reading rule. I felt they were just making
18 things up, and that's the reason why they asked me to stop.

19 Q How many security officers did you and Mr. Lucas interface
20 with when you entered the building?

21 A When we first entered the building, we talked to one
22 security officer. It looked like he made several attempts to
23 reach someone. Eventually three other officers came.
24 Mr. Lucas spoke to a female security officer explaining what we
25 were there to do. The female security officer said, let me

1 bring my supervisor. An officer with a white shirt that made
2 us believe -- you know, we believe he was a supervisor also
3 approach Mr. Lucas.

4 Mr. Lucas once again explained to him what we were there
5 to do. I would say in total we spoke to three officers about
6 what we were there to do.

7 Q At any point in time, did any one of those officers say
8 today is not a good day to serve the DNC, no one here is able
9 to accept service for the DNC?

10 A No.

11 Q At any point in time, did any of those officers say
12 today's not a good day to serve Debbie Wasserman Schultz, there
13 is no one here to accept service for Debbie Wasserman Schultz?

14 A No.

15 Q When Ms. Herries came down, at any point in time did she
16 say I'm not able to accept service for the DNC?

17 A No.

18 Q At any point in time, did Ms. Herries say I'm not able to
19 accept service for Debbie Wasserman Schultz?

20 A No.

21 Q At any point in time did Ms. Herries say today's not a day
22 to serve the DNC --

23 MR. SPIVA: Objection, Your Honor. He's leading the
24 witness.

25 THE COURT: Refrain from leading.

1 MR. O'BRIEN: Thank you, Your Honor.

2 BY MR. O'BRIEN:

3 Q Were you given any indication by Ms. Herries that she was
4 not authorized to accept service on behalf of the DNC?

5 A No.

6 Q Same question with respect to Debbie Wasserman Schultz.

7 A No.

8 Q Did you hear Ms. Herries say, Shawn, hi, Becca?

9 A Yes.

10 Q Did you hear Ms. Herries say, I'm just with the DNC
11 upstairs?

12 A Yes.

13 Q Did you hear Shawn respond, you are with the DNC?

14 A Yes.

15 Q Did you hear Ms. Herries respond, yes?

16 A Yes.

17 Q Did you hear the -- did you hear Shawn say, all right.
18 Well, this is going to be a service to the DNC?

19 A Yes.

20 Q Did you hear Ms. Herries say to the DNC, okay?

21 A Yes.

22 Q Did you hear Shawn respond, and this is for Debbie
23 Wasserman Schultz?

24 A Yes.

25 Q Did you hear Ms. Herries respond, perfect?

1 A Yes.

2 Q Did you hear Shawn say, you guys have been served?

3 A Yes.

4 Q Did you hear Ms. Herries respond, okay?

5 A Yes.

6 Q Did you hear Shawn respond, thank you so much. We'll see
7 you in court?

8 A Yes.

9 Q And before Shawn -- you heard Shawn say, all right, well,
10 this is going to be service to the DNC, did you see Shawn hand
11 Ms. Herries the service of process packet?

12 A Yes.

13 Q And before Shawn said and this is for Debbie Wasserman
14 Schultz, did you see Shawn hand Ms. Herries the service of
15 process packet?

16 A Yes.

17 Q How far away from you were -- during this interaction?

18 A Maybe one or two feet. I was right next to him, right
19 behind him.

20 Q At any point in time, were you given the indication that
21 you needed to come back, that Shawn Lucas needed to come back
22 to effect service on the DNC or Ms. Wasserman Schultz?

23 A No.

24 Q Did you hear Shawn indicate to the security officers that
25 he was there to serve the DNC with legal papers?

1 A Yes.

2 Q Did you hear Shawn say to the security officers he was
3 there to serve Debbie Wasserman Schultz with legal papers?

4 MR. SPIVA: Objection, Your Honor, leading and also
5 calling for hearsay now.

6 MR. O'BRIEN: I want to know -- it's not hearsay, not
7 offered for the truth, just as the defendant said, just want to
8 know what was said.

9 THE COURT: Well, you are asking the witness to repeat
10 what is on the video, correct?

11 MR. O'BRIEN: You're right, it's duplicative in that
12 sense. I just want to cover my bases, Your Honor.

13 THE COURT: That's fine. You can ask the question. I
14 will overrule the question. He is simply testifying about what
15 is on the video.

16 THE WITNESS: Yes.

17 MR. O'BRIEN: May I ask the question again, Your
18 Honor?

19 THE COURT: Sure.

20 BY MR. O'BRIEN:

21 Q Did you hear Shawn say to the security guards, I'm here to
22 serve legal process on Debbie Wasserman Schultz?

23 A Yes.

24 MR. O'BRIEN: Your Honor, may I consult with my
25 colleagues to see if we have further questions?

1 THE COURT: Take your time.

2 MR. O'BRIEN: Thank you, Your Honor.

3 BY MR. O'BRIEN:

4 Q When you were in the lobby of the DNC headquarters, did it
5 appear that the offices were closed?

6 A No.

7 Q Did you see people walking in and out to the elevator
8 bank?

9 A Yes.

10 MR. O'BRIEN: Your Honor, I have no further questions.

11 THE COURT: Recross?

12 MR. O'BRIEN: Thank you.

13 MR. SPIVA: No, Your Honor, no further questions.

14 THE COURT: All right. Thank you, sir. You may step
15 down. Watch your step, please.

16 THE WITNESS: Thank you, sir. Take the evidence?

17 THE COURT: Just give that to counsel.

18 MR. O'BRIEN: Thank you, sir.

19 Your Honor, may we confer to see whether we would like
20 to try to call Mrs. Wilding?

21 THE COURT: Sure. Take your time.

22 MR. O'BRIEN: Thank you, Your Honor.

23 Your Honor, may I tell -- consult with Mrs. Wilding,
24 the first named plaintiff, about our thought process?

25 THE COURT: Go right ahead.

1 MR. O'BRIEN: Thank you, Your Honor.

2 THE COURT: You can step out of the courtroom if you
3 need to.

4 MR. THOMAS: Your Honor, would it be possible for us
5 to have a comfort break, five minutes?

6 THE COURT: We will take a short recess. Let's have
7 everyone back in the courtroom at five after. Court is in
8 recess for ten minutes.

9 MR. THOMAS: Thank you, Your Honor.

10 (Thereupon, a recess was taken at 11:56 a.m.)

11 THE COURT: Please be seated. All right. The
12 plaintiff may call its next witness.

13 MR. HERNANDEZ: Your Honor, after discussing the
14 matter with our colleagues and the plaintiff, we have decided
15 not to call Ms. Wilding today. We wanted to provide the Court
16 with the widest net possible, but in light of the testimony and
17 the evidence we have proffered, we respectfully retract calling
18 her.

19 THE COURT: All right. That's fine.

20 MR. HERNANDEZ: Thank you, Judge.

21 THE COURT: The plaintiff rests?

22 MR. O'BRIEN: For the evidence, yes, Your Honor.

23 THE COURT: All right. Thank you.

24 Any testimony or evidence on behalf of the defense?

25 MR. SPIVA: I think the answer is no, Your Honor. I

1 just wanted one clarification. The plaintiffs had filed the
2 two affidavits of service on the record, ECF No. 7 and ECF
3 No. 6. And I am assuming that I don't need to introduce those
4 into evidence. I know the Court has already considered them, I
5 think you've mentioned in your recent order. And that's the
6 only thing that we would rely upon in our argument that hasn't
7 been introduced by the plaintiffs here today.

8 THE COURT: I am not considering them for the purposes
9 of this hearing.

10 MR. SPIVA: Well, these are the affidavits of service
11 from Mr. Lucas --

12 THE COURT: Oh, I'm sorry.

13 MR. SPIVA: Yeah. -- that the plaintiffs submitted.

14 THE COURT: You said affidavits, and I thought that
15 you were talking about --

16 MR. SPIVA: I apologize, affidavit of service. The
17 plaintiffs had submitted earlier affidavits of service, one --
18 both are signed, I think, by Mr. Lucas. And one is at ECF --

19 THE COURT: Docket entry --

20 MR. SPIVA: No. 7.

21 THE COURT: -- 6 and 7?

22 MR. SPIVA: Yes, Your Honor.

23 THE COURT: Any objection from the plaintiff?

24 MR. O'BRIEN: Your Honor, I believe that the burden
25 was on the defendants to bring in any testimony or witnesses.

1 We wanted Ms. Herries here. We wanted the security guards here
2 to sort of double back on the original affidavits. We would
3 just -- we would object on the basis that it's hearsay. But
4 it's in the court file, so I don't know how Your Honor could
5 not take it into account.

6 But with respect to the affidavit of service, we have
7 an affidavit from Mr. Lucas that's dated -- oh, it's July 7th
8 that has -- appears to have corrections. We did not file it.
9 And I don't know if Your Honor would accept this in lieu of
10 accepting the ones that -- this would sort of be a rebuttal
11 exhibit to that.

12 MR. SPIVA: I have never seen that, Your Honor. And
13 these were filed by the plaintiffs themselves, you know,
14 purporting to show how they accomplished service. I don't
15 think it's hearsay. It's clearly statement by an agent of the
16 plaintiff. And they filed it for the purpose of showing -- of
17 meeting their burden of showing that they had effectuated
18 service. I can move them formally as exhibits if need be, Your
19 Honor, but they are on the ECF record.

20 THE COURT: Well, for the purposes of the hearing, you
21 should move them in as defense exhibits if that's what you wish
22 to do.

23 MR. SPIVA: Yes, Your Honor.

24 THE COURT: Take a look at the exhibits that plaintiff
25 is showing you.

1 MR. SPIVA: Okay. So if I might, Your Honor, may I go
2 ahead and move in the two affidavits of service?

3 THE COURT: Do you want to mark them separately or as
4 a composite exhibit?

5 MR. SPIVA: I think I should mark them separately,
6 Your Honor.

7 THE COURT: All right. Defendants' 1 and 2?

8 MR. SPIVA: Yes, Your Honor. So the one that appears
9 at ECF docket No. 6 we would mark as Defendants' Exhibit 1, and
10 the affidavit of service that appears at ECF document No. 7 we
11 would mark as Defendants' Exhibit 2.

12 THE COURT: Any objection from the plaintiff?

13 MR. O'BRIEN: Your Honor, it's part of the court
14 record. I don't know how I could make an objection that Your
15 Honor wouldn't consider it other than technically it's hearsay,
16 and we would ask to be able to submit this rebuttal exhibit if
17 that's allowed.

18 THE COURT: I will overrule the objection.
19 Defendants' 1 and 2 are in evidence.

20 (Thereupon, Defendants' 1 and 2 received in evidence.)

21 MR. SPIVA: Your Honor, I believe this is the first
22 time I have seen this revised affidavit of service, so I would
23 object if they are intending to, I guess, introduce this in
24 their rebuttal case, but maybe I should wait until their
25 rebuttal.

1 Your Honor, we are not going to introduce any further
2 evidence. At some point I don't know if Your Honor is going to
3 entertain argument today, but based on evidence that the
4 plaintiffs have submitted, the previous --

5 THE COURT: I'm not going entertain argument right
6 now.

7 MR. SPIVA: Okay.

8 THE COURT: Any additional evidence or any testimony
9 from the defendant?

10 MR. SPIVA: I don't think so, Your Honor. Let me just
11 confer with my co-counsel just briefly.

12 No, Your Honor. With the exception of those two
13 exhibits, that's it. Thank you.

14 THE COURT: So the defendants rest?

15 MR. SPIVA: Yes, Your Honor.

16 THE COURT: Any rebuttal testimony or evidence from
17 the plaintiff?

18 MR. O'BRIEN: Yes, Your Honor. I would like to offer
19 rebuttal evidence. It's an affidavit of service signed by
20 Mr. Lucas. The purpose of this is to show that Mr. Lucas tried
21 to correct who he thought he served. And on the exhibit, it
22 has a Rebecca Christopher which is who he thought he was
23 serving, one of the people on the list that he gave the
24 security guard as seen on the video. I know the defendants --
25 we didn't know that they were going to produce rebuttal

1 exhibits, so this would be our counter to the other affidavits
2 that are already in the court file.

3 MR. SPIVA: Your Honor, I may be missing something,
4 but this looks exactly the same to me as what we have marked as
5 Defendants' Exhibit 2, which was document No. 7. I just went
6 through it kind of line by line, and I can't find what the
7 difference is.

8 THE COURT: Well, I haven't seen them, so...

9 MR. O'BRIEN: The difference is, Your Honor, when it
10 says I, Brandon Yoshimura, it looks like the form was filled
11 out with the wrong name and --

12 THE COURT: That is the only change?

13 MR. O'BRIEN: Is that the only change?

14 MS. BECK: Yes, Your Honor.

15 MR. O'BRIEN: Yes, Your Honor.

16 MR. SPIVA: In that case, Your Honor, with the
17 stipulation that that is the only change here, I would not
18 object to the admission of this. I'm not withdrawing the
19 exhibit that I entered.

20 THE COURT: I understand.

21 MR. SPIVA: Because I want to show that there was an
22 inaccuracy there. But I don't object to this also being --

23 THE COURT: That will be Plaintiffs' Exhibit No. 5?

24 MR. O'BRIEN: Yes, Your Honor.

25 THE COURT: All right. There being no objection,

1 Plaintiffs' 5 is in evidence being an affidavit of service.

2 (Thereupon, Plaintiffs' 5 received in evidence.)

3 MR. O'BRIEN: Your Honor, we have no further evidence.

4 THE COURT: All right. The plaintiff rests?

5 MR. O'BRIEN: Thank you, Your Honor.

6 THE COURT: All right. I will hear argument from
7 counsel.

8 MR. SPIVA: Since this is our motion, do you want to
9 hear from us first, Your Honor?

10 THE COURT: Yes.

11 MR. SPIVA: Thank you, Your Honor. First I must say
12 we first offered to accept a waiver of service form over a
13 month ago, and so I'm a little bit, you know, kind of taken
14 aback or confused as to why we are really here.

15 Clearly service was not provided in the proper manner.
16 I think the videotape only confirms that. You know, this was
17 done on the weekend before July 4th when they knew that nobody
18 would be there, and they didn't make any attempt to really to
19 get a proper person. They didn't even ask the person that they
20 got what her last name was, what her title was, whether she fit
21 any of the categories under either the D.C. statute or the
22 Florida statute or any of the federal rules. So frankly,
23 usually --

24 THE COURT: When you say the federal rules, you are
25 talking about Rule 4 --

1 MR. SPIVA: Yes, Your Honor.

2 THE COURT: -- of the federal rules?

3 MR. SPIVA: Yes, Your Honor. And with respect to
4 either Ms. Wasserman Schultz or the DNC itself, you know,
5 frankly, when this has happened in the past, you know, when
6 counsel offers to accept waiver, you know, the waiver form, the
7 opposing counsel goes ahead and does that. And we certainly
8 would have been willing to negotiate over the time frame to
9 respond. I know that would have given us more time.

10 But we can't waive this type of service because it
11 would just open the floodgates to anybody kind of, you know, as
12 a matter of political theater, you know, coming into the DNC
13 offices and, you know, kind of grabbing the first person they
14 can get ahold of.

15 On their face, if you look at either the revised or
16 the original affidavits of service by the process server, they
17 are deficient. He doesn't even state in there that the person
18 he talked to said that they were authorized to have service
19 because, as the tape shows, she clearly didn't. He has the
20 wrong person in the affidavit of service which only confirms
21 what the tape shows which he didn't even ask what her last name
22 was. He must have looked it up on the internet.

23 The person he thought he was serving, Rebecca
24 Christopher, also isn't authorized to accept service.

25 THE COURT: Is or is not?

1 MR. SPIVA: Sorry, Your Honor?

2 THE COURT: Is or is not?

3 MR. SPIVA: Is not, Your Honor. She's a creative
4 strategist. She's not an agent, a managing agent, all of the
5 other -- treasurer, the other things that you would need to be.

6 When it's not a holiday weekend and someone comes and
7 asks for that type of a person, in the past they have come down
8 and accepted service.

9 There were other options available. They could have
10 served by registered mail under certain conditions in D.C.
11 They didn't avail themselves of that. And then, of course, you
12 know, as I mentioned at the beginning, they could -- and even
13 know, Your Honor, we would be willing to fill out the waiver of
14 service form and accept service that way.

15 We have now been put to considerable expense, you
16 know, trying to uphold this principle that you can't just kind
17 of serve people by dropping paper on a Friday afternoon on the
18 first person you come across. And, you know, so that's
19 unfortunate, Your Honor, but we would still -- you know, we are
20 not trying to evade service, as has been suggested in the
21 papers of the plaintiffs. We are still willing to figure out a
22 waiver of service form. I would be willing to do it today.

23 And, you know, the only thing we would ask is for an
24 extension, Your Honor, in terms of our time to respond. We
25 have had to spend so much time on this that we haven't yet been

1 able to get to responding on the merits.

2 THE COURT: But the parties have stipulated that
3 Ms. Herries was then the special assistant to the CEO of the
4 DNC on July 1, 2016, correct?

5 MR. SPIVA: That is correct. But she was not, and
6 there's certainly no evidence in the record that she had any
7 authority to accept service on behalf of the DNC or on behalf
8 of Ms. Dacey or anyone else and she didn't. And certainly the
9 plaintiffs have not come forward with any evidence that she had
10 such authority. I mean --

11 THE COURT: How is it that she ended up in the lobby
12 then?

13 MR. SPIVA: They refused to leave until they spoke to
14 someone. It's not clear from anything that we have heard today
15 what she was told before she came down.

16 But what is clear, though, is that the process server
17 thought that he could give the papers to anybody in the
18 building, that basically all she said was, hi, my name is
19 Becca. And, you know, Your Honor has seen the video, so I
20 won't repeat it but, you know, there was no question, are you
21 authorized to accept service of legal papers for the DNC for
22 Ms. Wasserman Schultz, and she clearly was not.

23 THE COURT: Why did she accept them then?

24 MR. SPIVA: I don't even know that she knew -- I'm
25 sure that she didn't know she was accepting service of the

1 process. I think she thought she was taking --

2 THE COURT: Why did she take the papers?

3 MR. SPIVA: Because they handed them to her. Somebody
4 said to her that, according to her declaration, that there were
5 people in the lobby who wouldn't go away until they got to
6 speak to somebody from the DNC. She tried to get ahold of her
7 superiors and couldn't.

8 THE COURT: Well, according to the video, Ms. Herries
9 says, quote, Shawn, hi, Becca.

10 Ms. Herries says, I'm just with the DNC upstairs.

11 The process server, Mr. Lucas says you're with the
12 DNC.

13 Ms. Herries, yes.

14 The process server, all right. Well, this is going to
15 be a service to the DNC.

16 Ms. Herries, to the DNC? Okay.

17 The process server, and this is for Debbie Wasserman
18 Schultz.

19 Ms. Herries, perfect.

20 The process server, you guys have been served.

21 What did Ms. Herries think was going on?

22 MR. SPIVA: I don't know, Your Honor, but I think from
23 the face of that, from the video that Your Honor just read, he
24 didn't say service of process. He didn't say service of a
25 lawsuit. At the end he said, see you in court, but I think it

1 was entirely ambiguous what he was saying. Service to the DNC
2 could mean anything. This is a low level employee who simply
3 went downstairs --

4 THE COURT: Well, that's difficult to say, that she's
5 a low level employee at the time if she's the special assistant
6 to the CEO, the chief executive officer of the DNC.

7 MR. SPIVA: Well, the special assistant, Your Honor,
8 is an administrative -- you know, it's a pretty entry level
9 position. I mean, it's not -- this is not a policy making --

10 THE COURT: I'm not saying that, but I am saying that
11 it is the right-hand man, if you will, to the CEO.

12 MR. SPIVA: It really isn't, Your Honor. And there is
13 no evidence in this record that other than the fact that she,
14 you know, did what any secretary could do, was she sent around
15 an email, of course, that isn't in the record -- even if Your
16 Honor were to admit that into the record --

17 THE COURT: I'm not saying that that makes her one of
18 the individuals that is set out in the rules --

19 MR. SPIVA: Right.

20 THE COURT: -- to accept service of process.

21 MR. SPIVA: Right. Yeah. And, yes, that's correct,
22 Your Honor. She clearly is not one of the people set out under
23 the rules who is authorized to accept --

24 THE COURT: But she is not a low level employee at the
25 DNC.

1 MR. SPIVA: She's pretty entry level, Your Honor. Had
2 they introduced the pictures they were going to introduce, you
3 would see she's about a couple years out of college and this is
4 a pretty entry level position. There is no evidence on this
5 one way or the other, but she really isn't a high level
6 employee by any manner of speaking, Your Honor.

7 THE COURT: So the title is somewhat misleading?

8 MR. SPIVA: Your Honor, in Washington, D.C. there are
9 thousands of special assistants. And, you know, as Your Honor
10 is probably aware, yeah, it's not -- it certainly doesn't
11 denote -- you know, no disrespect to Ms. Herries but --

12 THE COURT: No, I understand.

13 MR. SPIVA: -- but it's like an internship or a
14 clerkship. It's a great thing to do, you know, as a young
15 person out of school, but it is not a high level position.

16 Your Honor, unless you have other questions for me, I
17 am content to rest on our papers and what I said before. You
18 know, I think it's very clear from the video, from the
19 affidavits of service that they did not serve these papers on
20 somebody who was authorized under the relevant statutes and
21 rules to accept service of process.

22 You know, we are certainly still willing and ready to
23 do a proper waiver of service, but we don't think the Court
24 should allow them to kind of do a service light, if you will,
25 here where you kind of just go to the office and drop the

1 papers on the first person you can get to come down, you know,
2 the elevator without verifying that that person has any
3 authority to do so.

4 THE COURT: All right. Thank you.

5 MR. SPIVA: Thank you, Your Honor.

6 THE COURT: I think you dropped a piece of paper.

7 MR. O'BRIEN: Thank you, Your Honor.

8 MR. SPIVA: Is that yours or mine?

9 MR. O'BRIEN: Thank you.

10 THE COURT: Yes, sir.

11 MR. O'BRIEN: May it please the Court. With respect
12 to my colleague, I just I disagree about what is on the video.
13 I think Your Honor has discretion to find that there was
14 authority by Ms. Herries.

15 The statements about Ms. Herries' low level or didn't
16 know what was going on or all that, yes, we don't have
17 Ms. Herries here, but we wanted Ms. Herries here. We wanted
18 the security guards here.

19 I don't think that this Court can accept evidence
20 about Ms. Herries when they haven't brought Ms. Herries here.
21 From the evidence that we have, we have Ms. Herries saying, as
22 Your Honor repeated, perfect, as to Debbie Wasserman Schultz,
23 and to the DNC, okay, as to the DNC on service of process.

24 I think that when you say service to anybody in this
25 country, they know it's legal process of service of papers.

1 Even in the declaration of Ms. Herries, she talks about having
2 called the COO to find out about legal papers. So even under
3 her own declaration, she knew that this was legal process.

4 I will say her calculation is troubling because it
5 doesn't mention the conversation that happened with Mr. Lucas.
6 It omits significant details that Your Honor has in evidence.

7 So I would say to the extent we are relying on
8 Mrs. Herries to counteract the evidence we put in, I don't
9 think she's credible. I just don't think she's credible. To
10 submit a declaration to this Court to not talk about the
11 conversation, I think that renders Ms. Herries not credible.

12 We wanted her here. We could have asked Ms. Herries
13 all these questions. We could have asked the security guards.
14 We did the best we could. We flew down the videographer. We
15 have the video. We have Mrs. Wilding, the first named
16 plaintiff who watched the video. We've done all we can in
17 terms of evidence.

18 THE COURT: You have referred to Ms. Herries'
19 declaration. That is not being considered for the purposes of
20 this evidentiary hearing.

21 MR. O'BRIEN: Correct, Your Honor. And I -- Your
22 Honor made a ruling on the motion in limine. I just -- my
23 colleague made an argument with respect to what is in the
24 declaration. So we ask Your Honor not to consider anything.
25 But in terms of atmospherics, the reason why it's our burden

1 now to put forward evidence is because of the declaration they
2 submitted which we believe --

3 THE COURT: To the motion.

4 MR. O'BRIEN: Excuse me, to the motion to quash.

5 THE COURT: Right.

6 MR. O'BRIEN: In support thereof, they filed a
7 declaration of Mrs. Herries that triggered the plaintiffs'
8 burden to put forward evidence as to proper service. But that
9 declaration that triggered the burden now having seen the video
10 is not credible and has, in my opinion, material omissions as
11 to what transpired.

12 If you read the last paragraph, I just think she
13 should have said what was said. They handed me papers and
14 left. I mean, that's the impression they gave to this Court
15 through this declaration that now require us to put on
16 witnesses and evidence. They won't allow us to bring
17 Mrs. Herries. I think we shouldn't even have to be here. I
18 don't think that declaration should have even triggered the
19 burden.

20 I have a problem the calculation. They handed me the
21 papers and left. That's not what happened. They didn't hand
22 her the papers and left. Find the first person. I'm watching
23 a different video.

24 They asked the security guard -- they went into the
25 building. They asked the security guards. There was a lot of

1 conversation. They were trying to find the right person.
2 Somebody came down. Security guards came down. We have no
3 evidence as to why she came down.

4 Based on the video, it looks like they came down --
5 she came down to accept service of process. I think that's a
6 reasonable conclusion in Your Honor's discretion based on the
7 evidence.

8 This isn't the first person. Mr. Lucas took his time
9 to say service of process on the DNC, service of process on
10 Debbie Wasserman Schultz, and they brought someone down. It's
11 not like they grabbed someone who was in the elevator bank.

12 And by the way, this was open for business. They
13 didn't say, hey, sorry, 4th of July weekend, come back after
14 the holiday and someone will be here. They didn't give him
15 that impression, that you can't serve anybody that day. There
16 was no indication that service was improper, not even by
17 Mrs. Herries.

18 I think they did everything you should do when you are
19 serving a big corporation and the former chairwoman of the
20 corporation in the corporate offices.

21 I just respectfully disagree with what I am seeing
22 here in the evidence before, Your Honor. So I think Your Honor
23 has the discretion to find that there was actual authority by
24 Mrs. Herries. They have not put forward any evidence to the
25 contrary. Your Honor can make that conclusion.

1 Whether or not Your Honor rules on the Wikileaks email
2 which we would submit is further evidence contrary to this low
3 level -- this non-evidentiary lawyer submission, she's sending
4 an email to the DNC, everybody at the DNC, come to the
5 Wasserman conference room. We've got an all hands on deck
6 meeting. Come to the conference room. That doesn't seem like
7 a low level employee. That sounds like someone who they would
8 entrust, both the DNC and the chairwoman, to come except
9 service.

10 But if Your Honor doesn't consider the Wikileaks, we
11 would like to submit a memorandum of law on the case we were
12 provided today. I think Your Honor would be making a ruling of
13 first impression on Wikileaks. I don't know that any court has
14 allowed a Wikileaks email in. At least I put it in WestLaw. I
15 didn't find any. So I want to be cautious of that. So we
16 think there's a sufficient record for actual authority.

17 Process server comes, tells the security guards I'm
18 here to serve process. A lot of security guards talk about it.
19 Someone a white shirt, the head security guard, brings down
20 someone who says, oh, I'm with the DNC upstairs. Okay.
21 Service of the DNC. Okay. Let me say it correct. Service to
22 the DNC. Okay. And this is for Debbie Wasserman Schultz.
23 Perfect. You guys have been served. Okay.

24 What else is a process server supposed to do?

25 I believe that Your Honor also has discretion to find

1 there was apparent authority. If Your Honor in the alternative
2 does not believe that there is actual authority from the
3 record, we have submitted a case, the Kulik case, that we
4 believe allows Your Honor to make that determination.

5 The case law talks about apparent authority in terms
6 of service of process. And the burden would shift to us to
7 show that someone from the DNC or Debbie Wasserman Schultz gave
8 Mrs. Herries the authority. We don't have Mrs. Herries. We
9 don't have the security guards. But I do believe on this
10 record Your Honor would be within his discretion to determine
11 that when you go into a lobby and you ask security guards about
12 service of process and they bring someone down, I think that's
13 enough for us to meet our burden that the DNC and Debbie
14 Wasserman Schultz gave Mrs. Herries the authority to come down
15 and get it, service of process.

16 I say that because there is no evidence to the
17 contrary from defendants, and there is no indication whatsoever
18 that something was wrong with service, not from Mrs. Herries,
19 not from the security guards, from no one. So I think the only
20 evidence, in quotes, that Your Honor would have that service
21 was improper would be lawyer argument. I don't think there's
22 any evidence that service was improper. I think it's just
23 lawyer argument that should not be considered as evidence.

24 THE COURT: And what about service as to Congresswoman
25 Schultz in her individual capacity?

1 MR. O'BRIEN: I agree, Your Honor, that is a little
2 more gray area. I would say that the DNC, I don't think
3 there's a gray area. The argument we would say, the reason why
4 we think it's a good faith argument respect to Debbie Wasserman
5 Schultz is because she's the chair of the DNC. If you can't
6 serve the chair of the DNC at the DNC headquarters, where else
7 could you serve her? Yeah, we could go to her house or find
8 her on the campaign trail, but she's the chair of the DNC
9 headquarters. I'm sure she doesn't want us going to her house
10 or finding her on the campaign trail. She's the chair. She's
11 not some lower level employee. She's the figurehead of the
12 entire organization with the building that Your Honor saw,
13 Democratic National headquarters. If you can't serve the chair
14 of that building, the stuff that goes on in that building, at
15 the building with the person who comes down and says perfect, I
16 don't know how else to do it.

17 THE COURT: Am I not bound by Rule 4 of the Federal
18 Rules of Civil Procedure?

19 MR. O'BRIEN: Your Honor, that is the applicable rule.
20 It would be --

21 THE COURT: -- or the appropriate Florida statute?

22 MR. O'BRIEN: You are bound. And I think Your Honor
23 has the discretion to find that there is authority, actual
24 authority, based on the interface between the process server
25 and the security guards, the security guards and Mrs. Herries,

1 and Mrs. Herries and the process server, in terms of apparent
2 authority Your Honor has that discretion.

3 And in Florida law, and if I may submit these cases
4 post hearing, I found a case called Evans versus Thornton under
5 Florida law. The federal rules talk about the law applicable
6 in the district or where the service is. In Florida there is a
7 case called Evans versus Thornton which is 898 So.2d 151 where
8 I would read that case as Florida law allowing apparent
9 authority to serve an individual.

10 THE COURT: Let me ask the plaintiff, in a case of
11 this nature, this magnitude, if there is -- and you have
12 conceded in a way that there is the issue regarding
13 Mrs. Schultz in her individual capacity, that there is a gray
14 area. All right. If there is a gray area regarding service in
15 general and I were to rule in favor of the plaintiff, why would
16 you want that lingering out there for the purposes of appeal at
17 a later point in time?

18 MR. O'BRIEN: That's a great question, Your Honor.
19 And the way I would respond to it is the way I responded to my
20 colleagues here when they said just do a waiver of service
21 because --

22 THE COURT: I'm not saying to give a waiver of
23 service. I'm not suggesting that at all.

24 MR. O'BRIEN: It's a principled thing. We did it
25 right. We did it the right way. We did not mess up. We don't

1 need to do a waiver of service. That can be used against us as
2 inadequate counsel somehow. We did everything we are supposed
3 to do. When I say gray area, I mean an individual is different
4 than a corporation.

5 THE COURT: You can turn around and re-serve and clear
6 everything up.

7 MR. O'BRIEN: You're right, but we served the right
8 way. And just because she's the Democratic National Committee
9 chairperson at the time and just because it's a democratic
10 party, it doesn't mean that they just get to say we messed up
11 when we didn't mess anything up.

12 THE COURT: I understand. That is a ruling that the
13 Court will eventually make.

14 MR. O'BRIEN: The reason I say it's a gray area is
15 because individuals are treated differently than corporations,
16 so the step I think Your Honor has the discretion to make is
17 because she's chair, that was proper to serve in that building.
18 We didn't want to get cute with the pleadings. We believe
19 she's sued in her individual capacity.

20 THE COURT: That's fine. That is not an issue. But
21 it needed to be cleared up for the purposes of the record and
22 for the analysis to take place.

23 MR. O'BRIEN: Thank you, Your Honor. I would like to
24 rest on the papers unless Your Honor has further questions.

25 THE COURT: Thank you.

1 MR. O'BRIEN: Thank you. I would like to be able to
2 submit, if Your Honor would allow, argument regarding Wikileaks
3 at a later point. We could do it in 24 hours if Your Honor
4 would like.

5 THE COURT: Well, it will have to be quick because
6 this has been now pending, and for the benefit of the parties,
7 I want to give you a ruling on it. So if you can submit it by
8 close of business tomorrow.

9 MR. O'BRIEN: That's perfect, Your Honor.

10 THE COURT: Is that fine? Okay.

11 MR. O'BRIEN: Thank you, Your Honor.

12 THE COURT: Reply?

13 MR. SPIVA: Just briefly, Your Honor. Even leaving
14 Ms. Herries' declaration aside which Your Honor has ruled
15 shifted the burden to the other side, there is certainly no
16 evidence and, in fact, I think any evidence that is in the
17 record really is to the contrary, that Ms. Herries fits any of
18 the categories under Rule 4 under the Florida statute, under
19 the D.C. statute for people who are authorized to accept
20 service.

21 THE COURT: For A corporation.

22 MR. SPIVA: For a corporation or for Ms. Wasserman,
23 Congresswoman Wasserman Schultz.

24 THE COURT: Individually.

25 MR. SPIVA: Individually or in her corporate capacity.

1 We've heard from --

2 THE COURT: She hasn't been sued in her corporate
3 capacity.

4 MR. SPIVA: That was our previous understanding until
5 today, Your Honor, was that she was being sued in her corporate
6 capacity. But she hasn't been properly served in either
7 capacity. And Ms. Herries certainly didn't have authority to
8 accept service on her behalf in either capacity.

9 You know, we have heard that what else is the process
10 server to do. I think one thing to keep in mind here is just
11 based on the affidavits of service themselves and based on the
12 video which I would submit is perfectly consistent with
13 Ms. Herries' declaration in every important respect, the
14 process server, with all due respect, didn't even know who he
15 had left the papers with.

16 And his affidavit of service doesn't state that. It
17 actually states that he left it with somebody else who also
18 there's certainly no evidence before the Court that
19 Ms. Christopher who he says in his affidavit of service was the
20 person that he served, there is no evidence that she had
21 authority to accept service of process, and she didn't.

22 And so I think based on that, Your Honor, that they
23 really didn't come close. I think if you take a look at the
24 Sears & Roebuck case in this circuit, as Your Honor knows,
25 service, Rule 4, is strictly construed. They have cited a lot

1 of cases from outside the circuit where some circuits have
2 looser rules on this. I think most of the cases even under
3 looser rules are pretty distinguishable from this case, and we
4 have talked about that in our briefs.

5 But in this circuit, it is strictly construed. I
6 don't think they even came close. So it's not a matter of, oh,
7 it's kind of a technicality. I mean, they got the first name
8 of the first person who walked down. And her declaration, I
9 did misspeak, I think, when I first got up which I know is the
10 thing that put the burden on them, does talk about what she
11 knew when she came down. She was told somebody was downstairs
12 and they couldn't leave until they could hand some legal papers
13 to someone. It doesn't say that she knew she was being served
14 with a lawsuit and she was accepting service. And certainly
15 the videotape is consistent with that.

16 I think it's important to strictly construe Rule 4
17 because otherwise anybody can and will sue, not just the DNC,
18 but potentially the RNC and potentially any corporation in
19 America by simply going to their front offices. Most places
20 have security these days. I have certainly been a plaintiff in
21 many cases, and I know that sometimes you can't get the person
22 you need to serve the first time your service processer goes
23 there. Sometimes they have to go there several times. So
24 sometimes it's not easy.

25 But here they had alternatives. They had registered

1 mail. And even after we brought to their attention that they
2 had gotten the wrong person, we offered to accept this waiver
3 of service of process.

4 And I must say, I don't understand this point about we
5 don't want to concede that we did anything wrong. No one is
6 asking them to concede anything. Certainly to just say, look,
7 we want to remove all doubt and move on, it seems like the
8 quicker thing to do would be to send us the waiver of process
9 form.

10 But one thing we can't concede is that, you know,
11 anybody can just come into the DNC, into the lobby, and
12 essentially hand some legal papers to the first person who
13 comes down and that that's sufficient service, Your Honor.

14 So we would ask that the motion be granted. Thank you
15 very much.

16 THE COURT: Do you want time to respond to any written
17 submission that the plaintiff might send?

18 MR. SPIVA: Yes, Your Honor.

19 THE COURT: All right. Then I will give you until the
20 close of business on Thursday.

21 MR. SPIVA: Okay. Thank you, Your Honor. I mean,
22 just if I might, I mean, whichever way Your Honor rules on that
23 email, I don't think it changes the fundamental facts that --

24 THE COURT: I understand that.

25 MR. SPIVA: So --

1 THE COURT: I understand that.

2 MR. SPIVA: All right. Thank you, Your Honor.

3 THE COURT: All right. Counsel, thank you very much.
4 I will wait until I receive the written submissions with the
5 last one being due on the close of business on Thursday. I am
6 going to ask for the lawyers to hold on to your own exhibits.
7 I really don't think there is any need for the Court to review
8 Plaintiffs' 2 which is the police report. That deals only with
9 Mr. Lucas, and that is not an issue, really. Plaintiffs' 3 is
10 an email again dealing with Mr. Lucas, and that's not an issue.
11 Plaintiffs' 4 I have reserved on. And we have Defendants' 1
12 and 2 which I have copies of those. Those are docket entry
13 No. 6 and 7 in the court file. And Plaintiffs' 5 is basically
14 the corrected affidavit of service which simply changes a name.
15 So I will ask the lawyers to hold on to your own exhibits then.

16 MR. O'BRIEN: With respect to Exhibit 1 by the
17 plaintiffs, Your Honor, should we --

18 THE COURT: You hold on to that thumb drive, yes. You
19 keep that as well.

20 All right. Anything else from the plaintiff?

21 MR. O'BRIEN: No. Thank you, Your Honor.

22 THE COURT: From the defense?

23 MR. SPIVA: No, Your Honor. Thank you.

24 THE COURT: All right. Counsel, thank you very much.
25 The Court appreciates your argument and your efforts.

1 There being no further business, this session of the
2 court is the adjourned. Everyone have a great week. Have a
3 safe travel back to your home destinations.

4 MR. SPIVA: Thank you, Your Honor.

5 MR. O'BRIEN: Thank you, Your Honor.

6 THE COURT: Court is in adjournment.

7 (Thereupon, the hearing concluded at 12:46 p.m.)

8 - - -

9 C E R T I F I C A T E

10
11 I hereby certify that the foregoing is an
12 accurate transcription of the proceedings in the
13 above-entitled matter.

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16 10/13/17

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<p>E</p> <p>earlier [1] 38/17 East [2] 2/11 64/17 easy [1] 61/24 ECF [6] 38/2 38/2 38/18 39/19 40/9 40/10 effect [1] 34/22 effectuated [1] 39/17 efforts [1] 63/25 either [11] 19/7 19/16 20/5 26/4 26/18 26/21 43/21 44/4 44/15 60/6 60/8 electronic [2] 10/23 14/1 elevator [3] 36/7 50/2 53/11 Elizabeth [2] 1/18 4/10 else [9] 9/8 12/19 46/8 54/24 56/6 56/16 60/9 60/17 63/20 email [25] 6/18 7/13 8/7 8/11 8/15 8/20 9/9 9/16 9/20 10/13 10/15 10/17 10/18 11/22 12/2 19/13 23/18 24/8 24/14 48/15 54/1 54/4 54/14 62/23 63/10 employee [6] 48/2 48/5 48/24 49/6 54/7 56/11 encounter [1] 30/6 end [2] 7/23 47/25 ended [1] 46/11 enough [1] 55/13 entered [3] 31/20 31/21 42/19 entertain [2] 41/3 41/5 entire [2] 12/8 56/12 entirely [1] 48/1 entitled [1] 64/13 entrust [1] 54/8 entry [5] 38/19 48/8 49/1 49/4 63/12 Esquire [6] 1/13 1/15 1/18 1/19 2/3 2/6 essentially [1] 62/12 establish [1] 11/21 et [2] 1/3 1/7 evade [1] 45/20 Evans [2] 57/4 57/7 even [17] 10/16 43/19 44/17 44/21 45/12 46/24 48/15</p>	<p>evidentiary [4] 4/24 16/25 51/20 54/3 exactly [1] 42/4 examination [4] 22/16 25/11 25/13 30/23 examine [1] 11/17 examined [1] 22/2 except [2] 5/11 54/8 exception [3] 6/5 12/13 41/12 Excuse [1] 52/4 executive [1] 48/6 exhibit [28] 5/17 6/21 8/7 9/12 10/4 10/4 12/12 12/18 13/5 13/9 19/10 20/19 20/20 21/10 23/14 23/22 24/20 24/25 39/11 40/4 40/9 40/11 40/16 41/21 42/5 42/19 42/23 63/16 Exhibit 2 [1] 20/20 exhibits [17] 3/8 3/14 5/24 6/23 8/4 13/9 15/14 15/15 15/22 21/12 39/18 39/21 39/24 41/13 42/1 63/6 63/15 expect [1] 25/20 expense [1] 45/15 explained [1] 32/4 explaining [1] 31/24 extension [1] 45/24 extent [1] 51/7 extra [1] 13/1</p> <p>F</p> <p>face [2] 44/15 47/23 Facebook [4] 6/1 6/4 18/13 30/17 fact [6] 11/5 26/1 29/6 29/21 48/13 59/16 facts [1] 62/23 fair [2] 26/2 28/19 faith [1] 56/4 far [3] 12/11 20/2 34/17 fashion [1] 18/6 favor [1] 57/15 federal [5] 43/22 43/24 44/2 56/17 57/5 feel [1] 20/7 feets [1] 34/18 felt [3] 31/10 31/16 31/17</p>	<p>female [2] 31/24 31/25 figure [1] 45/21 figurehead [1] 56/11 file [4] 39/4 39/8 42/2 63/13 filed [5] 15/22 38/1 39/13 39/16 52/6 fill [2] 26/4 45/13 filled [1] 42/10 filmmaker [2] 23/1 31/2 find [13] 11/10 15/20 25/20 42/6 50/13 51/2 52/22 53/1 53/23 54/15 54/25 56/7 56/23 finding [1] 56/10 fine [14] 5/4 5/14 6/13 6/25 8/5 15/23 16/22 20/13 21/19 23/16 35/13 37/19 58/20 59/10 Finish [1] 9/4 finished [2] 15/14 15/15 first [40] 1/16 9/20 10/5 10/11 11/11 13/10 13/15 13/22 13/22 15/2 15/10 17/4 18/9 19/8 20/9 20/11 22/2 22/8 22/12 23/6 31/13 31/13 31/21 36/24 40/21 43/9 43/11 43/12 44/13 45/18 50/1 51/15 52/22 53/8 54/13 61/7 61/8 61/9 61/22 62/12 fit [1] 43/20 fits [1] 59/17 five [2] 37/5 37/7 flew [2] 17/25 51/14 floodgates [1] 44/11 Floor [1] 1/17 FLORIDA [15] 1/1 1/4 1/14 1/17 1/21 2/7 2/11 43/22 56/21 57/3 57/5 57/6 57/8 59/18 64/18 flsd.uscourts.gov [2] 2/12 64/18 following [1] 4/2 follows [2] 10/14 22/3 foregoing [1] 64/11 form [6] 42/10 43/12 44/6 45/14 45/22 62/9 formally [1] 39/18 former [1] 53/19 Fort [4] 1/4 1/14 2/11 64/18 forward [6] 20/9 20/11 46/9 52/1 52/8 53/24 found [1] 57/4 foundation [2] 24/4 24/16 frame [1] 44/8 frankly [2] 43/22 44/5 free [1] 20/7 Friday [3] 23/11 25/23 45/17 front [1] 61/19 full [1] 22/6 fundamental [1] 62/23 further [11] 25/5 25/10 30/20 35/25 36/10 36/13 41/1 43/3 54/2 58/24 64/1</p> <p>G</p> <p>gap [1] 20/24 gave [5] 10/1 41/23 52/14 55/7 55/14 general [3] 27/15 27/25 57/15</p>	<p>gentleman [1] 7/25 get [19] 10/22 12/9 12/16 12/19 12/21 13/19 14/1 14/23 19/10 25/16 43/19 44/14 46/1 47/6 50/1 55/15 58/10 58/18 61/21 getting [1] 5/2 give [11] 13/3 16/19 17/23 18/14 22/9 36/17 46/17 53/14 57/22 59/7 62/19 given [3] 33/3 34/20 44/9 go [19] 5/7 13/12 13/23 14/3 14/18 15/12 15/17 17/3 18/3 20/9 20/11 23/16 36/25 40/1 47/5 49/25 55/11 56/7 60/23 goes [3] 44/7 56/14 61/22 going [25] 5/19 7/21 12/22 12/23 15/22 19/21 20/12 25/2 29/10 29/22 29/23 31/8 33/18 34/10 41/1 41/2 41/5 41/25 47/14 47/21 49/2 50/16 56/9 61/19 63/6 good [16] 4/3 4/6 4/12 4/13 4/16 4/19 14/20 21/21 21/21 22/18 22/19 25/15 25/15 32/8 32/12 56/4 got [5] 43/20 47/5 54/5 61/7 61/9 gotten [1] 62/2 government [1] 16/11 grabbed [1] 53/11 grabbing [1] 44/13 granted [1] 62/14 gray [6] 56/2 56/3 57/13 57/14 58/3 58/14 great [3] 49/14 57/18 64/2 Gregg [2] 2/6 4/17 guard [5] 29/1 29/11 41/24 52/24 54/19 guards [17] 17/18 29/1 29/18 30/25 35/21 39/1 50/18 51/13 52/25 53/2 54/17 54/18 55/9 55/11 55/19 56/25 56/25 guess [1] 40/23 guys [3] 34/2 47/20 54/23</p> <p>H</p> <p>had [28] 10/3 11/22 14/18 15/22 16/10 16/11 17/22 18/19 26/23 28/7 28/15 29/11 29/18 30/9 31/4 31/6 38/1 38/17 39/17 45/25 46/6 46/9 49/1 60/15 60/20 61/25 61/25 62/2 hand [8] 21/24 24/20 34/10 34/14 48/11 52/21 61/12 62/12 handed [4] 23/21 47/3 52/13 52/20 handle [1] 9/10 hands [1] 54/5 happened [6] 12/20 14/12 31/15 44/5 51/5 52/21 happening [1] 18/15 has [29] 4/23 4/24 5/16 6/8 18/5 21/15 23/13 23/21 31/7 38/4 39/8 41/22 44/5 44/19 45/20 46/19 50/2 50/13 51/6 52/10 53/23 54/13 54/25</p>

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<p>I</p> <p>it's... [27] 39/4 39/7 39/15 39/15 40/13 40/15 41/19 45/6 46/14 48/8 48/9 49/10 49/13 49/14 49/18 50/25 51/25 53/10 55/22 56/4 57/24 58/9 58/14 61/6 61/7 61/16 61/24 its [1] 37/12 itself [4] 8/15 18/20 28/10 44/4</p>	<p>44/21 52/12 63/5 late [1] 5/2 later [4] 14/24 29/13 57/17 59/3 Lauderdale [4] 1/4 1/14 2/11 64/18 law [11] 1/13 1/16 10/15 11/9 31/17 54/11 55/5 57/3 57/5 57/5 57/8 lawsuit [2] 47/25 61/14 lawyer [3] 54/3 55/21 55/23 lawyers [3] 1/19 63/6 63/15 leading [3] 32/23 32/25 35/4 leaked [1] 16/11 learning [1] 15/11 least [4] 9/6 10/10 19/17 54/14 leave [3] 30/2 46/13 61/12 leaving [1] 59/13 Lee [1] 1/19 left [5] 52/14 52/21 52/22 60/15 60/17 legal [12] 22/6 26/25 28/11 34/25 35/3 35/22 46/21 50/25 51/2 51/3 61/12 62/12 let [8] 8/8 9/20 12/25 17/13 31/25 41/10 54/21 57/10 Let's [1] 37/6 level [12] 48/2 48/5 48/8 48/24 49/1 49/4 49/5 49/15 50/15 54/3 54/7 56/11 lieu [1] 39/9 light [2] 37/16 49/24 like [24] 11/12 14/18 17/4 18/7 20/10 21/11 21/18 23/12 24/24 30/8 31/22 36/19 41/18 42/10 49/13 53/4 53/11 54/6 54/7 54/11 58/23 59/1 59/4 62/7 likewise [1] 27/15 limine [1] 51/22 line [2] 42/6 42/6 lingering [1] 57/16 list [4] 10/4 11/2 12/12 41/23 43/13 56/1 live [9] 6/4 18/12 18/13 22/20 22/21 29/9 29/21 30/17 31/4 lived [1] 22/22 LLP [1] 2/3 lobby [5] 36/4 46/11 47/5 55/11 62/11 LoCicero [1] 2/6 long [1] 22/22 longer [1] 28/20 look [5] 16/15 39/24 44/15 60/23 62/6 looked [2] 31/22 44/22 looking [2] 15/20 24/7 looks [3] 42/4 42/10 53/4 looser [2] 61/2 61/3 lot [5] 26/2 31/9 52/25 54/18 60/25 low [6] 48/2 48/5 48/24 50/15 54/2 54/7 lower [1] 56/11 Lucas [24] 7/16 7/25 26/15 27/9 28/4 29/6 30/5 30/15 31/6 31/19 31/24 32/3 32/4</p>	<p>34/21 38/11 38/18 39/7 41/20 41/20 47/11 51/5 53/8 63/9 63/10</p> <p>M</p> <p>made [6] 5/11 30/2 31/22 32/1 51/22 51/23 magnitude [1] 57/11 mail [2] 45/10 62/1 Mainly [1] 11/4 make [14] 6/23 12/10 13/8 13/19 15/11 16/20 18/1 18/18 40/14 43/18 53/25 55/4 58/13 58/16 makes [1] 48/17 making [4] 30/11 31/17 48/9 54/12 man [1] 48/11 manager [2] 22/25 27/25 managing [2] 27/12 45/4 manner [3] 17/2 43/15 49/6 many [5] 17/17 18/19 25/20 31/19 61/21 mark [5] 13/8 40/3 40/5 40/9 40/11 marked [7] 5/16 5/20 9/12 13/5 23/13 23/21 42/4 material [1] 52/10 matter [4] 37/14 44/12 61/6 64/13 may [24] 5/5 6/2 6/23 9/9 9/21 11/11 13/3 13/18 15/4 15/16 16/16 22/14 23/15 25/4 35/17 35/24 36/14 36/19 36/23 37/12 40/1 42/3 50/11 57/3 maybe [3] 14/17 34/18 40/24 me [18] 9/20 12/25 17/13 23/8 30/15 30/18 31/3 31/14 31/18 31/25 41/10 42/4 49/16 52/4 52/13 52/20 54/21 57/10 mean [13] 6/1 12/19 17/10 19/17 46/10 48/2 48/9 52/14 58/3 58/10 61/7 62/21 62/22 means [1] 19/23 meet [1] 55/13 meeting [5] 8/16 12/4 12/7 39/17 54/6 memorandum [1] 54/11 mention [1] 51/5 mentioned [2] 38/5 45/12 merits [1] 46/1 mess [2] 57/25 58/11 messed [1] 58/10 Miami [2] 1/17 1/21 microphone [1] 22/5 middle [2] 22/9 28/25 might [4] 10/23 40/1 62/17 62/22 mind [1] 60/10 mine [1] 50/8 minute [2] 10/23 20/24 minutes [6] 28/19 28/21 28/23 28/24 37/5 37/8 mischaracterize [1] 7/4 misleading [1] 49/7 missing [1] 42/3 misspeak [1] 61/9 moment [1] 5/16</p>	<p>month [1] 43/13 more [2] 44/9 56/2 morning [12] 4/3 4/6 4/12 4/13 4/16 4/19 4/21 21/21 22/18 22/19 25/15 25/15 most [2] 61/2 61/19 motion [11] 1/10 4/22 4/22 4/23 4/25 11/24 43/8 51/22 52/3 52/4 62/14 move [5] 5/2 39/18 39/21 40/2 62/7 MR [3] 3/5 3/6 19/17 Mr. [24] 19/18 21/18 25/15 26/15 27/9 28/4 29/6 30/5 30/15 31/6 31/19 31/24 32/3 32/4 38/11 38/18 39/7 41/20 41/20 47/11 51/5 53/8 63/9 63/10 Mr. Lucas [21] 26/15 27/9 28/4 29/6 30/5 30/15 31/6 31/19 31/24 32/3 32/4 38/11 38/18 39/7 41/20 41/20 47/11 51/5 53/8 63/9 63/10 Mr. Villalba [3] 19/18 21/18 25/15 Mrs [1] 57/1 Mrs. [14] 36/20 36/23 51/8 51/15 52/7 52/17 53/17 53/24 55/8 55/8 55/14 55/18 56/25 57/13 Mrs. Herries [10] 51/8 52/7 52/17 53/17 53/24 55/8 55/8 55/14 55/18 56/25 Mrs. Schultz [1] 57/13 Mrs. Wilding [3] 36/20 36/23 51/15 Ms [3] 8/16 9/17 32/21 Ms. [59] 7/24 8/18 8/22 9/6 11/6 11/14 11/16 11/22 14/9 14/21 17/19 18/9 18/25 20/11 20/20 28/8 28/16 32/15 32/18 33/3 33/8 33/10 33/15 33/20 33/25 34/4 34/11 34/14 34/22 37/15 39/1 44/4 46/3 46/8 46/22 47/8 47/10 47/13 47/16 47/19 47/21 49/11 50/14 50/15 50/17 50/17 50/20 50/20 50/21 51/1 51/11 51/12 51/18 59/14 59/17 59/22 60/7 60/13 60/19 Ms. Beck [2] 20/11 20/20 Ms. Carol [1] 18/9 Ms. Christopher [1] 60/19 Ms. Dacey [2] 11/6 46/8 Ms. Herries [39] 8/18 8/22 9/6 11/14 11/16 11/22 14/21 17/19 32/15 32/18 33/3 33/8 33/10 33/15 33/20 33/25 34/4 34/11 34/14 39/1 46/3 47/8 47/10 47/13 47/16 47/19 47/21 49/11 50/14 50/17 50/17 50/20 50/20 50/21 51/1 51/11 51/12 59/17 60/7 Ms. Herries' [4] 50/15 51/18 59/14 60/13 Ms. Rebcca [1] 7/24 Ms. Wasserman [7] 14/9</p>
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<p>K</p> <p>keep [3] 24/15 60/10 63/19 kind [12] 12/7 15/10 28/22 28/25 42/6 43/13 44/11 44/13 45/16 49/24 49/25 61/7 knew [6] 30/1 43/17 46/24 51/3 61/11 61/13 know [57] 10/16 11/11 12/19 15/21 16/12 19/20 23/1 24/11 30/15 32/2 35/6 35/8 38/4 39/4 39/9 39/13 40/14 41/2 41/24 41/25 43/13 43/16 44/4 44/5 44/6 44/9 44/11 44/12 44/13 45/12 45/13 45/16 45/18 45/19 45/23 46/19 46/20 46/24 46/25 47/22 48/8 48/14 49/9 49/11 49/14 49/18 49/22 50/1 50/16 50/25 54/13 56/16 60/9 60/14 61/9 61/21 62/10 knows [1] 60/24 Kulik [1] 55/3</p>	<p>44/21 52/12 63/5 late [1] 5/2 later [4] 14/24 29/13 57/17 59/3 Lauderdale [4] 1/4 1/14 2/11 64/18 law [11] 1/13 1/16 10/15 11/9 31/17 54/11 55/5 57/3 57/5 57/5 57/8 lawsuit [2] 47/25 61/14 lawyer [3] 54/3 55/21 55/23 lawyers [3] 1/19 63/6 63/15 leading [3] 32/23 32/25 35/4 leaked [1] 16/11 learning [1] 15/11 least [4] 9/6 10/10 19/17 54/14 leave [3] 30/2 46/13 61/12 leaving [1] 59/13 Lee [1] 1/19 left [5] 52/14 52/21 52/22 60/15 60/17 legal [12] 22/6 26/25 28/11 34/25 35/3 35/22 46/21 50/25 51/2 51/3 61/12 62/12 let [8] 8/8 9/20 12/25 17/13 31/25 41/10 54/21 57/10 Let's [1] 37/6 level [12] 48/2 48/5 48/8 48/24 49/1 49/4 49/5 49/15 50/15 54/3 54/7 56/11 lieu [1] 39/9 light [2] 37/16 49/24 like [24] 11/12 14/18 17/4 18/7 20/10 21/11 21/18 23/12 24/24 30/8 31/22 36/19 41/18 42/10 49/13 53/4 53/11 54/6 54/7 54/11 58/23 59/1 59/4 62/7 likewise [1] 27/15 limine [1] 51/22 line [2] 42/6 42/6 lingering [1] 57/16 list [4] 10/4 11/2 12/12 41/23 43/13 56/1 live [9] 6/4 18/12 18/13 22/20 22/21 29/9 29/21 30/17 31/4 lived [1] 22/22 LLP [1] 2/3 lobby [5] 36/4 46/11 47/5 55/11 62/11 LoCicero [1] 2/6 long [1] 22/22 longer [1] 28/20 look [5] 16/15 39/24 44/15 60/23 62/6 looked [2] 31/22 44/22 looking [2] 15/20 24/7 looks [3] 42/4 42/10 53/4 looser [2] 61/2 61/3 lot [5] 26/2 31/9 52/25 54/18 60/25 low [6] 48/2 48/5 48/24 50/15 54/2 54/7 lower [1] 56/11 Lucas [24] 7/16 7/25 26/15 27/9 28/4 29/6 30/5 30/15 31/6 31/19 31/24 32/3 32/4</p>	<p>34/21 38/11 38/18 39/7 41/20 41/20 47/11 51/5 53/8 63/9 63/10</p> <p>M</p> <p>made [6] 5/11 30/2 31/22 32/1 51/22 51/23 magnitude [1] 57/11 mail [2] 45/10 62/1 Mainly [1] 11/4 make [14] 6/23 12/10 13/8 13/19 15/11 16/20 18/1 18/18 40/14 43/18 53/25 55/4 58/13 58/16 makes [1] 48/17 making [4] 30/11 31/17 48/9 54/12 man [1] 48/11 manager [2] 22/25 27/25 managing [2] 27/12 45/4 manner [3] 17/2 43/15 49/6 many [5] 17/17 18/19 25/20 31/19 61/21 mark [5] 13/8 40/3 40/5 40/9 40/11 marked [7] 5/16 5/20 9/12 13/5 23/13 23/21 42/4 material [1] 52/10 matter [4] 37/14 44/12 61/6 64/13 may [24] 5/5 6/2 6/23 9/9 9/21 11/11 13/3 13/18 15/4 15/16 16/16 22/14 23/15 25/4 35/17 35/24 36/14 36/19 36/23 37/12 40/1 42/3 50/11 57/3 maybe [3] 14/17 34/18 40/24 me [18] 9/20 12/25 17/13 23/8 30/15 30/18 31/3 31/14 31/18 31/25 41/10 42/4 49/16 52/4 52/13 52/20 54/21 57/10 mean [13] 6/1 12/19 17/10 19/17 46/10 48/2 48/9 52/14 58/3 58/10 61/7 62/21 62/22 means [1] 19/23 meet [1] 55/13 meeting [5] 8/16 12/4 12/7 39/17 54/6 memorandum [1] 54/11 mention [1] 51/5 mentioned [2] 38/5 45/12 merits [1] 46/1 mess [2] 57/25 58/11 messed [1] 58/10 Miami [2] 1/17 1/21 microphone [1] 22/5 middle [2] 22/9 28/25 might [4] 10/23 40/1 62/17 62/22 mind [1] 60/10 mine [1] 50/8 minute [2] 10/23 20/24 minutes [6] 28/19 28/21 28/23 28/24 37/5 37/8 mischaracterize [1] 7/4 misleading [1] 49/7 missing [1] 42/3 misspeak [1] 61/9 moment [1] 5/16</p>	<p>month [1] 43/13 more [2] 44/9 56/2 morning [12] 4/3 4/6 4/12 4/13 4/16 4/19 4/21 21/21 22/18 22/19 25/15 25/15 most [2] 61/2 61/19 motion [11] 1/10 4/22 </p>

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