September 4, 2018

The Honorable Jesse M. Furman
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Plaintiffs' letter motion to compel production of documents withheld or redacted on grounds of deliberative process privilege in *New York Immigration Coalition, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-5025 (JMF), and *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-2921 (JMF)

Dear Judge Furman,

On August 14, 2018, this Court held that it would apply a balancing test to assertions of deliberative process privilege in this case, and that Plaintiffs could seek to compel production of "specific documents or categories of documents" under that test. 18-CV-2921, ECF No. 241 at 2. Plaintiffs now seek to compel production of 32 documents (the "Documents") that Defendants have withheld on deliberative process grounds. *See* Ex. A (highlighted in yellow).

All but two of these records were created or received by Secretary Ross, Earl Comstock, Wendy Teramoto, or Karen Dunn Kelley, the four senior Department of Commerce ("Commerce") officials most heavily involved in the decision to add the citizenship question. The withheld records of these officials are critical to assessing whether Defendants acted with discriminatory intent in adding the citizenship question, and whether and how Defendants used the Department of Justice ("DOJ") to create a pretext to mask their true motivations. The Documents thus are essential to the adjudication of both the Administrative Procedure Act and equal protection claims in these cases, and Defendants can cite no legitimate government interest in shielding records that will shed light on a scheme to mislead the American public.

A. Every Factor in the Balancing Test Weighs in Favor of Disclosure

Under the balancing test that this Court adopted, this Court considers: (1) the relevance of the evidence; (2) the availability of other evidence; (3) the seriousness of the litigation; (4) the role of the agency in the litigation; and (5) the possibility that disclosure will inhibit future candid debate among agency decision-makers. *Winfield v. City of N.Y.*, 2018 WL 716013, at *5-6 (S.D.N.Y. Feb. 1, 2018). While this Court adopted this balancing test rather than holding the privilege categorically inapplicable in this case, courts have noted that where the decisionmaking process is a central issue, the difference between the two approaches is "more stylistic than substantive." *In re Delphi Corp.*, 276 F.R.D. 81, 85 (S.D.N.Y. 2011). Where "the deliberative or decisionmaking process is the 'central issue,'" "the need for the deliberative documents" will typically "outweigh the possibility that disclosure will inhibit future candid debate." *Id.*

1. *The Documents Are Essential to This Litigation*: This factor weighs strongly in favor of disclosure where a plaintiff must show improper intent to establish its legal claims. *U.S. Postal Serv. v. Phelps Dodge Ref. Corp.*, 852 F. Supp. 156, 166 (E.D.N.Y. 1994); *MacNamara v. City of N.Y.*, 249 F.R.D. 70, 84-85 (S.D.N.Y. 2008). This is especially so in cases "involving

allegations of discrimination [or] pretext," because the "decisionmaking process" and the motivations of "individual" government actors may be highly probative of such claims. *Citizens Union of City of N.Y. v. Atty. Gen. of N.Y.*, 269 F. Supp. 3d 124, 167 (S.D.N.Y. 2017).

The Documents "go[] to the heart of" Plaintiffs' equal protection and APA claims. *Burbar*, 303 F.R.D. at 14. They are relevant to whether Defendants acted with discriminatory intent toward immigrant communities, whether Defendants acted under political pressure, and whether they created a pretext to justify their decision:

- Some may reflect outright animus toward immigrant communities of color. *See, e.g.*, AR 3888 (email with the subject "Counting of illegal immigrants").
- Many significantly predate the DOJ December 12, 2017 request and will shed light on why Secretary Ross wanted to add the citizenship question, including documents surrounding his May 2017 statement that his request was "months old." AR 3695, 3698, 3702, 3710, 3888.
- Ten documents concern the events surrounding Secretary Ross' September 2017 phone call with the Attorney General to solicit DOJ to request the question, which may illustrate that the stated reason of Voting Rights Act enforcement is pretext. AR 1403, 2458, 2461 (& attachment), 3687, 3990, 9834, 3984, 11047, 11048, 11362.
- Eleven documents reflect Commerce officials' reactions to Census Bureau opposition to adding the question, including reactions to Dr. John Abowd's memoranda of January 3, January 19, and March 1, 2018, which concluded that adding a citizenship question would be "very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data." These records may also shed light on whether the stated rationale is pretext. AR 2474, 2517, 10273, 10291, 10299, 10342, 10351, 10352, 10356, 11250, 11252.
- Ten documents relate to congressional testimony or other communications with Congress and the media, which are relevant to whether there were efforts to mislead the public with a pretextual explanation. AR 2160, 2199, 3687, 3690, 3695, 3698, 3907, 3990, 5428, 5440.

2. *The Information is Not Available from Other Sources*: This factor weighs decidedly in favor of disclosure where plaintiffs allege discrimination or pretext, because the "evidence needed to demonstrate invidious or discriminatory motives . . . may not be available from sources other than individual [government actors]." *Citizens*, 269 F. Supp. 3d at 167. Here, the Documents are effectively the only evidence of Defendants' motivations for adding the question and requesting DOJ to provide the rationale.

Indeed, the need for the Documents is especially critical given the obfuscation about key events by Teramoto, Comstock, and Kelley in their depositions. The lack of forthrightness of these senior government officials was troubling to say the least. Ms. Teramoto, the Secretary's Chief of Staff, repeatedly claimed that she "wasn't involved" and played no role in the decision to add citizenship question, *see, e.g.*, Ex. B. at 70-71, 82, 93-94, 103, 122, 205-11, despite being on numerous e-mails and phone calls discussing the issue and personally organizing meetings on it. Ms. Teramoto claimed no memory. *See, e.g.*, *id.* at 40-41, 54-56, 77, 87-89. And despite contemporaneous documentation—from Secretary Ross himself—showing she was the only other person on a phone call between Secretary Ross and Attorney General Sessions to discuss the matter, she now says she was not. *Id.* at 82-85. Mr. Comstock, who was Secretary Ross' point person on adding the citizenship question, admits that the Secretary asked to include the

question in early 2017 before the VRA rationale surfaced, but remarkably testified that he never discussed the Secretary's rationale with the Secretary, or anyone else, because the Secretary's actual reason for wanting the question was "irrelevant." Ex. C at 111-13, 250-73, 285-86, 300-08. And Ms. Kelley testified to having no recollection of any conversation, at any time, with Secretary Ross in which he indicated that he was interested in the citizenship question as early as the spring of 2017. Ex. D at 27-31, 90-92. Given the failed memories of Commerce's senior leadership, the need for contemporaneous, documentary evidence is paramount.

3. *The Litigation is of Exceptional Public Importance*: This case is of great public importance, and this factor weighs heavily in favor of disclosure. An undercount in the Census will affect allocation of Electoral College votes, the apportionment of congressional seats, the configuration of congressional and state legislative districts, and billions of dollars in federal and state funding. *See, e.g.*, *Favors v. Cuomo*, 285 F.R.D. 187, 219 (E.D.N.Y. 2012).

4. *Commerce Has a Central Role in the Case and the Alleged Wrongdoing*: This factor "considers the role played by [the agency] and its members in the allegedly unlawful conduct." *Favors v. Cuomo*, 2015 WL 7075960, at *11 (E.D.N.Y. Feb. 8, 2015). Commerce and its leadership played a "direct" role in the alleged unlawful conduct here, and thus "the fourth factor weighs in favor of disclosure." *Citizens*, 269 F. Supp. 3d at 169.

5. *There is No Risk of Chilling Legitimate Deliberations*: The purpose of the privilege is to "protect frank discussion of legal or policy matters" to promote "the quality of agency decisions." *Resolution Tr. Corp. v. Diamond*, 137 F.R.D. 634, 642-43 (S.D.N.Y. 1991). The "justification for the privilege" therefore disappears where shielding the information would undermine, rather than promote, "the public's interest in effective government." *Burbar*, 303 F.R.D. at 14. One such circumstance is "when the information sought may shed light on alleged government malfeasance." *Id.*; *accord In re Sealed Case*, 121 F.3d 729, 738 (D.C. Cir. 1997) .

That is the case here. The Documents are not likely to reveal internal debate over legitimate policy objectives, but rather the reasons why Defendants sought to concoct an *ex post* justification for a conclusion they had already reached. There is no legitimate interest in protecting such communications, and no cause for concern that such discussions will be "chilled." The purpose of the privilege is to protect deliberations by government actors over how to best serve the American public, not "deliberations" over how best to mislead the public. In all events, any legitimate interest Defendants have in shielding the requested documents is far-outweighed by the importance of the documents to Plaintiffs' claims.

B. *In Camera* Review is Warranted

In camera review is warranted for the Documents. During this review, Plaintiffs request the Court also assess the invocation of additional privileges over three of the records. Defendants assert attorney-client privilege over AR 2458, but no legal counsel was on the communication, nor does the subject matter reflect that the document's purpose was to provide legal advice. Defendants assert work-product privilege over AR 3888 and 3984, but Defendants' log does not reflect involvement of counsel in these documents or specify that they were prepared in anticipation of litigation. And as previously discussed (18-CV-2921, ECF No. 220), AR 3888 and 3984 significantly predate the DOJ request and are not proximate to any litigation.

Respectfully submitted,

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EXHIBIT A

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0001403	0001403	0001403	0001403	Kelley, Karen (Federal)	Willard, Aaron (Federal)		10/9/2017 17:03			Notes from drive.msg	PII - Personal Privacy; DP - Deliberative Process	Recommendation, opinions and/or advice reflecting deliberations regarding reinstatement of the citizenship question
0001404	0001406	0001404	0001406	Victoria Velkoff (CENSUS/ACSO FED)	Willard, Aaron (Federal)		7/25/2017 14:17			RE: Tuesday availability.msg	PII - Personal Privacy	
0001407	0001408	0001407	0001408	Victoria Velkoff (CENSUS/ACSO FED)	Willard, Aaron (Federal)		7/25/2017 09:28			RE: Tuesday availability.msg	PII - Personal Privacy	
0001411	0001412	0001411	0001412	Neuhaus, Chelsey; Leach, Macie (Federal); Park-Su, Sahra; Hernandez, Israel (Federal); Dorsey, Cameron	Comstock, Earl (Federal)	Bedan, Morgan (Federal)	8/29/2017 13:23			Re: Census.msg	PII - Personal Privacy	
0001416	0001416	0001416	0001470	Hernandez, Israel (Federal)	Park-Su, Sahra		7/14/2017 14:46			(CENSUS) Found it! .msg	PII - Personal Privacy	
0001471	0001471	0001471	0001472	Kelley, Karen (Federal)	Comstock, Earl (Federal)	Wilbur Ross; Uthmeier, James (Federal); Rockas, James (Federal); Teramoto, Wendy (Federal); Walsh, Michael (Federal)	3/26/2018 15:49			Final Decision Memo on DoJ Request for Citizenship Question.msg	PII - Personal Privacy	
0001472	0001472	0001471	0001472	N/A	N/A		3/26/2018	Earl Comstock	3/26/2018 3:47 PM	DOJ Citizenship Request Decision Memo Final 3.26.18.pdf	DP - Deliberative Process	Draft Decision Memorandum regarding Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire
0001473	0001473	0001473	0001475	Comstock, Earl (Federal); Rockas, James (Federal); Uthmeier, James (Federal); O'Connor, Kasey (Federal); Semsar, Joseph (Federal)	Park-Su, Sahra (Federal)	Kelley, Karen (Federal); Walsh, Michael (Federal); Platt, Mike (Federal)	3/26/2018 10:58			Census: Historical Information.msg	PII - Personal Privacy	

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0002158	0002158	0002158	0002158	Rockas, James (Federal); Teramoto, Wendy (Federal)	Walsh, Michael (Federal)	Kelley, Karen (Federal); Comstock, Earl (Federal)	3/16/2018 09:30			RE: Updated with his further edits below - For your approval.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations from attorneys re census questions
0002159	0002159	0002159	0002159	Walsh, Michael (Federal); Teramoto, Wendy (Federal)	Rockas, James (Federal)	Kelley, Karen (Federal); Comstock, Earl (Federal)	3/16/2018 09:25			Re: Updated with his further edits below - For your approval.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and opinions re census questions
0002160	0002162	0002160	0002162	Teramoto, Wendy (Federal); Rockas, James (Federal)	Walsh, Michael (Federal)	Kelley, Karen (Federal); Comstock, Earl (Federal)	3/16/2018 09:23			RE: Updated with his further edits below - For your approval.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations re census questions
0002163	0002165	0002163	0002165	Rockas, James (Federal)	Teramoto, Wendy (Federal)	Kelley, Karen (Federal); Walsh, Michael (Federal); Comstock, Earl (Federal)	3/16/2018 09:20			Re: Updated with his further edits below - For your approval.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations re census questions
0002166	0002166	0002166	0002166	Kelley, Karen (Federal)	Teramoto, Wendy (Federal)	Comstock, Earl (Federal)	3/16/2018 07:34			Re: NEED APPROVAL - GILLIAN QUOTES.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations re census questions
0002167	0002169	0002167	0002169	Rockas, James (Federal)	Teramoto, Wendy (Federal)	Comstock, Earl (Federal)	3/16/2018 06:55			Re: NEED APPROVAL - GILLIAN QUOTES.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations re census questions
0002170	0002171	0002170	0002172	Walsh, Michael (Federal); Moulder, Pamela (Federal); Comstock, Earl (Federal)	O'Connor, Kasey (Federal)	Kelley, Karen (Federal)	3/6/2018 15:21			RE: Citizenship Letter for Review.msg	PII - Personal Privacy	
0002172	0002172	0002170	0002172	N/A	Kelley, Karen Dunn		3/6/2018	Nicole Y Thomas-Hawkins (CENSUS/OCIA FED)	3/6/2018 2:50 PM	New Citizenship Letter (002).docx	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft re responses to stakeholders with attorney comments
0002173	0002173	0002173	0002174	Moulder, Pamela (Federal); Comstock, Earl (Federal); O'Connor, Kasey (Federal)	Walsh, Michael (Federal)	Kelley, Karen (Federal)	3/6/2018 14:21			RE: Citizenship Letter for Review.msg	PII - Personal Privacy	
0002174	0002174	0002173	0002174	N/A	Kelley, Karen Dunn		3/6/2018	Nicole Y Thomas-Hawkins (CENSUS/OCIA FED)	3/6/2018 1:12 PM	New Citizenship Letter.docx	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft letter to stakeholders with attorney comments

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0002175	0002176	0002175	0002176	Walsh, Michael (Federal); Comstock, Earl (Federal)	Kelley, Karen (Federal)		3/1/2018 14:48			Re: DOJ request items.msg	PII - Personal Privacy	
0002177	0002178	0002177	0002178	Comstock, Earl (Federal)	Walsh, Michael (Federal)	Kelley, Karen (Federal)	3/1/2018 12:34			RE: DOJ request items.msg	PII - Personal Privacy	
0002179	0002179	0002179	0002179	Comstock, Earl (Federal)	Walsh, Michael (Federal)	Kelley, Karen (Federal)	3/1/2018 12:32			RE: DOJ request items.msg	PII - Personal Privacy	
0002180	0002180	0002180	0002198	Kelley, Karen (Federal); Comstock, Earl (Federal); Walsh, Michael (Federal)	Ron S Jarmin (CENSUS/ADEP FED)	Lamas, Enrique; Jones, Christa D; Abowd, John Maron; Semsar, Joseph (Federal)	3/1/2018 11:32			DOJ request items.msg	PII - Personal Privacy	
0002199	0002204	0002199	0002204	Comstock, Earl (Federal)	Christa Jones (CENSUS/ADEP FED)	Kelley, Karen (Federal)	2/28/2018 15:57			Re: Seeking comment - citizenship question..msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft responses to reporter
0002205	0002210	0002205	0002210	Comstock, Earl (Federal)	Manning, Kevin (Federal)		2/28/2018 15:11			RE: Seeking comment - citizenship question..msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft responses to reporter
0002211	0002214	0002211	0002214	Comstock, Earl (Federal)	Christa Jones (CENSUS/ADEP FED)	Kelley, Karen (Federal)	2/28/2018 14:46			Re: Seeking comment - citizenship question..msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft responses to reporter
0002215	0002218	0002215	0002218	Comstock, Earl (Federal)	Christa Jones (CENSUS/ADEP FED)	Kelley, Karen (Federal)	2/28/2018 14:09			Re: Seeking comment - citizenship question..msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional draft responses to reporter
0002219	0002221	0002219	0002221	Platt, Mike (Federal); Lenihan, Brian (Federal)	Neuhaus, Chelsey (Federal)	Kelley, Karen (Federal); Comstock, Earl (Federal); Davidson, Peter (Federal)	2/22/2018 14:22			RE: Return Outstanding Calls to the Hill.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional opinion
0002222	0002223	0002222	0002223	Lenihan, Brian (Federal)	Platt, Mike (Federal)	Neuhaus, Chelsey (Federal); Kelley, Karen (Federal); Comstock, Earl (Federal); Davidson, Peter (Federal)	2/22/2018 14:04			Re: Return Outstanding Calls to the Hill.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional opinion

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0002444	0002445	0002444	0002445	Kelley, Karen (Federal)	Comstock, Earl (Federal)		2/2/2018 12:13			Re: Q/As on Citizenship.msg	PII - Personal Privacy	
0002446	0002456	0002446	0002457	Wilbur Ross; Teramoto, Wendy (Federal)	Comstock, Earl (Federal)	Kelley, Karen (Federal)	10/29/2017 18:58			FW: Answers to Secretary Ross's Questions.msg	PII - Personal Privacy; DP - Deliberative Process	
0002457	0002457	0002446	0002457	N/A	N/A			Reist, Burton H (CENSUS/ADDC FED)	10/29/2017 12:08 PM	Q-A Prep Package_Questions from SWLR_10-29-17.docx	DP - Deliberative Process	Draft answers to prep for hearing
0002458	0002458	0002458	0002458	Teramoto, Wendy (Federal)	Comstock, Earl (Federal)		9/16/2017 07:33			Calls with DoJ.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Deliberative intra-agency discussions regarding potential addition of citizenship question
0002459	0002460	0002459	0002460	Davidson, Peter (Federal); Uthmeier, James (Federal)	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	9/7/2017 18:13			Re: Census Matter Follow-Up.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Solicitation and receipt of legal advice from counsel
0002461	0002461	0002461	0002461	Teramoto, Wendy (Federal)	Comstock, Earl (Federal)	Wilbur Ross	8/16/2017 16:44			Re: Memo on Census Question.msg	PII - Personal Privacy; DP - Deliberative Process	
0002462	0002462	0002462	0002462	Mary Blanche Hankey	Comstock, Earl (Federal)		5/4/2017 07:58			Call today to discuss DoC Issues.msg	PII - Personal Privacy	
0002463	0002463	0002463	0002463	Uthmeier, James (Federal)	Earl Comstock	Walsh, Michael (Federal); Kelley, Karen (Federal)	3/23/2018 19:19			Re: Census memo and Call.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product	Emails with counsel about draft Census memo
0002464	0002464	0002464	0002464	Walsh, Michael (Federal)	Earl Comstock	Kelley, Karen (Federal)	3/1/2018 12:33			Re: DOJ request items.msg	PII - Personal Privacy	
0002465	0002466	0002465	0002466	Lenihan, Brian (Federal)	Earl Comstock	Davidson, Peter (Federal); Kelley, Karen (Federal); Platt, Mike (Federal); Neuhaus, Chelsey (Federal)	2/8/2018 12:32			Re: Return Outstanding Calls to the Hill.msg	PII - Personal Privacy	

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0002474	0002475	0002474	0002475	Langdon, David (Federal)	Earl Comstock	Uthmeier, James (Federal); Willard, Aaron (Federal); Park-Su, Sahra (Federal); Davidson, Peter (Federal)	1/30/2018 08:53			Re: questions re: draft census memo.msg	PII - Personal Privacy; DP - Deliberative Process	Opinions and recommendations on questions for Census
0002476	0002476	0002476	0002476	Uthmeier, James (Federal)	Earl Comstock	Kelley, Karen (Federal); Rockas, James (Federal); Hernandez, Israel (Federal); Platt, Mike (Federal); Lenihan, Brian (Federal)	12/19/2017 21:42			Re: Census Update.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Advice from counsel
0002477	0002477	0002477	0002477	Walsh, Michael (Federal)	Peter Davidson	Uthmeier, James (Federal)	3/5/2018 20:32			Re: Meet with the Secretary.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product	Discussion between counsel re advice and analysis provided to Secretary Ross
0002478	0002478	0002478	0002478	Walsh, Michael (Federal)	Peter Davidson	Uthmeier, James (Federal)	3/5/2018 20:14			Re: Meet with the Secretary.msg	AC - Attorney Client Privilege; WP - Work Product	Discussion between counsel re advice and analysis provided to Secretary Ross
0002479	0002479	0002479	0002479	Wilbur Ross	Peter Davidson		2/23/2018 22:44			Re: Census memos.msg	PII - Personal Privacy	
0002480	0002480	0002480	0002480	Lenihan, Brian (Federal)	Peter Davidson		1/31/2018 18:48			Re: Return Outstanding Calls to the Hill.msg	PII - Personal Privacy	
0002481	0002481	0002481	0002481	Uthmeier, James (Federal)	Peter Davidson		1/8/2018 07:19			Re: Census.msg	AC - Attorney Client Privilege; WP - Work Product	Emails between counsel about draft memo and meeting with Census experts
0002482	0002482	0002482	0002482	Wilbur Ross	Peter Davidson		10/8/2017 18:54			Re: Letter from DoJ. .msg	PII - Personal Privacy	
0002483	0002483	0002483	0002483	Wilbur Ross	Peter Davidson		10/8/2017 18:47			Re: Letter from DoJ. .msg	PII - Personal Privacy	

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0002509	0002509	0002509	0002510	Williams, Allaire (Federal)	Comstock, Earl (Federal)	Walsh, Michael (Federal); Wilbur Ross; Teramoto, Wendy (Federal)	3/26/2018 16:11			SWLR Decision Memo for Formal Letterhead/Signature.msg	PII - Personal Privacy	
0002510	0002510	0002509	0002510	Kelley, Karen Dunn	Ross, Wilbur	Jarmin, Ron; Lamas, Enrique	3/26/2018	Comstock, Earl (Federal)	3/26/2018 3:35 PM	DOJ Citizenship Request Decision Memo Final 3.26.18.docx	DP - Deliberative Process	Draft of final decision memo
0002511	0002512	0002511	0002516	Wilbur Ross	Leach, Macie (Federal)	Teramoto, Wendy (Federal)	3/23/2018 15:54			FW: Friday Afternoon's Stakeholder Calls -- Schedule and Briefing Memos.msg	PII - Personal Privacy	
0002513	0002513	0002511	0002516	N/A	Platt, Mike		3/23/2018	O'Connor, Kasey (Federal)	3/23/2018 3:47 PM	SWR Call - Pelosi 3-23-18.docx	DP - Deliberative Process	Briefing paper for Secretary in advance of stakeholder call
0002514	0002514	0002511	0002516	N/A	Lenihan, Brian		3/14/2018	O'Connor, Kasey (Federal)	3/23/2018 3:48 PM	SWR Call - Neilsen 3-23-18.docx	DP - Deliberative Process	Briefing paper for Secretary in advance of stakeholder call
0002515	0002515	0002511	0002516	N/A	Census Bureau		3/21/2018	O'Connor, Kasey (Federal)	3/23/2018 3:48 PM	SWR Call - Habermann 3-23-18.docx	DP - Deliberative Process	Briefing paper prepared for Secretary in advance of stakeholder call
0002516	0002516	0002511	0002516	N/A	Census Bureau		3/12/2018	O'Connor, Kasey (Federal)	3/23/2018 3:49 PM	SWR Call - Groves 3-23-18.docx	DP - Deliberative Process	Briefing paper prepared for Secretary in advance of stakeholder call
0002517	0002517	0002517	0002517	Wilbur Ross	Kelley, Karen (Federal)		1/6/2018 13:06			Re: Census.msg	DP - Deliberative Process	Predecisional email from Secretary posing questions and interim status report from assistant
0002518	0002518	0002518	0002518	Wilbur Ross	Rockas, James (Federal)		1/2/2018 18:53			Update from Census.msg	PII - Personal Privacy	
0002519	0002520	0002519	0002520	Wilbur Ross	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	8/31/2017 23:21			Re: [REDACTED]	PII - Personal Privacy; Proprietary Information	Redacted information with no relevance to census
0002521	0002523	0002521	0002523	Wilbur Ross	Comstock, Earl (Federal)	Branstad, Eric (Federal)	3/10/2017 15:31			Your Question on the Census.msg	PII - Personal Privacy	

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0003687	0003687	0003687	0003687	Park-Su, Sahra; Willard, Aaron (Federal); Jarmin, Ron S; Lamas, Enrique; Mason, Jacque (Federal); Platt, Mike (Federal); Reist, Burton H; Crane, Joanne; Palensky, Michael L	Kelley, Karen (Federal)	Hernandez, Israel; Hernandez, Israel (Federal); Comstock, Earl (Federal); Teramoto, Wendy (Federal)	10/28/2017 18:16			20171028 616PM SWLR Questions.msg	DP - Deliberative Process	Pre-decisional preparation for testimony
0003688	0003689	0003688	0003690	Davidson, Peter (Federal); Keller, Catherine (Federal); Uthmeier, James (Federal)	Park-Su, Sahra	Kelley, Karen (Federal); Hernandez, Israel (Federal); Comstock, Earl (Federal); Platt, Mike (Federal); Lenihan, Brian (Federal); Willard, Aaron (Federal); Jarmin, Ron S; Lamas, Enrique	10/28/2017 18:30			20171028 631PM Question from Secretary.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Attorney-client communication seeking legal advice
0003690	0003690	0003688	0003690	N/A	N/A		10/23/2017	USCB	10/25/2017 4:09 PM	Secretary HSGAC 103117 Hearing Q A - Working Group v2jmedits.docx	DP - Deliberative Process	Pre-decisional draft preparation for testimony
0003691	0003692	0003691	0003692	Park-Su, Sahra	Davidson, Peter (Federal)	Keller, Catherine (Federal); Uthmeier, James (Federal); Kelley, Karen (Federal); Hernandez, Israel (Federal); Comstock, Earl (Federal); Platt, Mike (Federal); Lenihan, Brian (Federal); Willard, Aaron (Federal); Jarmin, Ron S; Lamas, Enrique	10/28/2017 20:12			20171028 812PM Re Question from Secretary.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Attorney-client communications seeking and giving legal advice
0003693	0003693	0003693	0003693	Wilbur Ross	Ron S Jarmin (CENSUS/ADEP FED)		1/8/2018 17:33			20180108 534PM Re Update on the Canadian Census.msg	PII - Personal Privacy	

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0003694	0003694	0003694	0003694	Comstock, Earl (Federal)	Alexander, Brooke (Federal)	Teramoto, Wendy (Federal)	4/20/2017 19:49			PL-DOC_009-0 20170420 450PM Ok .... I have tried 3 times to send from SWLR's email but can't for some reason.msg	PII - Personal Privacy	
0003695	0003697	0003695	0003698	Wilbur Ross	Comstock, Earl (Federal)	Teramoto, Wendy (Federal); Branstad, Eric (Federal)	5/1/2017 06:31			PL-DOC_010-0 20170501 722AM FW Census Testimony for Wed. May 3 House CJS Hearing.msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional advice and recommendations re draft testimony
0003698	0003698	0003695	0003698	N/A	N/A		5/3/2017	No metadata available	4/28/2017 11:29 AM	John Thompson 05 03 17 Written Testimony - Version 6sa - for Final Clearance.docx	DP - Deliberative Process	Pre-decisional draft testimony
0003699	0003700	0003699	0003700	Teramoto, Wendy (Federal)	Wilbur Ross		5/2/2017 10:23			PL-DOC_013-0 20170502 1023AM Re Census.msg	PII - Personal Privacy	Pre-decisional opinions re census; not relevant
0003701	0003701	0003701	0003701	Branstad, Eric (Federal)	Comstock, Earl (Federal)		5/3/2017 20:27			PL-DOC_014-0 20170504 753AM Re DOJ contact.msg	PII - Personal Privacy	
0003702	0003704	0003702	0003704	Blumerman, Lisa M	Langdon, David (Federal)		5/24/2017 18:51			PL-DOC_019-0 20170525 817AM Fwd Requested Information - Legal Review All Residents....msg	PII - Personal Privacy; DP - Deliberative Process	Pre-decisional opinion re analytical process
0003705	0003705	0003705	0003705	Comstock, Earl (Federal)	Uthmeier, James (Federal)		6/27/2017 18:26			PL-DOC_024-0 20170627 626PM Accepted HOLD Meet with James re Census and Citizenship.msg	PII - Personal Privacy	
0003706	0003706	0003706	0003706	Park-Su, Sahra (Federal)	Willard, Aaron (Federal)	Uthmeier, James (Federal)	1/30/2018 05:35			PL-DOC_256-0 20180130 535AM Re Questions for Census.msg	PII - Personal Privacy	
0003707	0003707	0003707	0003708	Park-Su, Sahra (Federal); O'Connor, Kasey (Federal); Uthmeier, James (Federal)	Rankin, Alex (Federal)	Platt, Mike (Federal)	3/23/2018 16:39			PL-DOC_491-0 20180323 439PM Congressional Intergov. Census Letters List.msg	PII - Personal Privacy	
0003709	0003709	0003709	0003709	Comstock, Earl (Federal)	A M Neuman		4/13/2017 23:41			PL-DOC-WH_007-0 & 008-0 20170420 842PM Re Census Questiion.msg	PII - Personal Privacy	

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0003710	0003710	0003710	0003710	Wilbur Ross	Comstock, Earl (Federal)	Herbst, Ellen (Federal)	5/2/2017 10:19			PL-DOC-WH_011 & 012-0 20170502 1004AM Re Census.msg	PII - Personal Privacy; DP - Deliberative Process	Emails discussing next steps on citizenship question; remaining redactions of not relevant material
0003711	0003712	0003711	0003712	Rockas, James (Federal)	Davidson, Peter (Federal)	Wilbur Ross; Teramoto, Wendy (Federal); Comstock, Earl (Federal); Kelley, Karen (Federal); Uthmeier, James (Federal)	1/2/2018 23:08			PL-DOC-WH_171-0 20180102 1108PM Re WaPo Editorial Board The Trump administration pushes for a change that could derail the census - The Washington Post.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Pre-decisional attorney-client communications re article
0003713	0003717	0003713	0003720	Kelley, Karen (Federal); Willard, Aaron (Federal); Lamas, Enrique	Ron S Jarmin (CENSUS/ADEP FED)		1/4/2018 15:05			PL-DOC-WH_177-0 20180104 306PM Fwd FINAL VERSION ATTACHED was Re Follow-up to 1000am meeting on DoJ request.msg	PII - Personal Privacy	
0003721	0003721	0003721	0003723	Robinson, Barry (Federal); Creech, Melissa L	Uthmeier, James (Federal)	Davidson, Peter (Federal)	1/4/2018 15:48			PL-DOC-WH_177-0 20180104 Legal Review of DOJ's Citizenship Request.msg	AC - Attorney Client Privilege; WP - Work Product	Attorney communications re legal analysis of DOJ request
0003722	0003722	0003721	0003723	Gary, Arthur	N/A		1/4/2018	Uthmeier, James (Federal)	1/4/2018 9:22 AM	DOC legal review of DOJ request re Citizenship Draft Jan 4 2018.docx	AC - Attorney Client Privilege; WP - Work Product	Draft attorney legal memo re analysis of DOJ request.
0003723	0003723	0003721	0003723	N/A	N/A		After 12/12/2017	Uthmeier, James (Federal)	1/4/2018 9:48 AM	Legal Memo to SWR re DOJ Citizenship Request Draft Jan 4 2018.docx	AC - Attorney Client Privilege; WP - Work Product	Attorney draft legal memo re DOJ request
0003724	0003724	0003724	0003725	Robinson, Barry (Federal); Creech, Melissa L	Uthmeier, James (Federal)	Davidson, Peter (Federal); McClelland, Michelle O (Federal)	1/7/2018 10:16			PL-DOC-WH_189-0 20180107 1016AM Re Revised Opinion on DOJ Census Questionnaire Request - Citizenship_mc.msg	AC - Attorney Client Privilege; WP - Work Product	Attorney communications re draft legal memo
0003725	0003725	0003724	0003725	Uthmeier, James	Robinson, Barry		1/5/2018	Robinson, Barry (Federal)	1/6/2018 8:08 PM	Revised Opinion on DOJ Census Questionnaire Request - Citizenshp edited 1.6.18.docx	AC - Attorney Client Privilege; WP - Work Product	Draft attorney legal memo re DOJ request

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0003823	0003824	0003823	0003863	Quinley, Kevin; Willard, Aaron (Federal); Park-Su, Sahra (Federal)	Burton H Reist	Jarmin, Ron S; Lamas, Enrique; Fontenot, Albert E; Crane, Joanne; Treat, James B; Thieme, Michael T; Kalluri, Phani-Kumar Atri; Stempowski, Deborah M; Becker Medina, Erika H; Villa Ross, Ceci Adriana	1/12/2018 18:40			Slide Deck for Secretary Ross Briefing.msg	PII - Personal Privacy	
0003864	0003866	0003864	0003871	Willard, Aaron (Federal); Quinley, Kevin; Park-Su, Sahra (Federal)	Burton H Reist	Jarmin, Ron S; Jarmin, Ron S; Fontenot, Albert E; Crane, Joanne; Buckner, Stephen L	1/10/2018 18:23			Steering Committee Read Ahead -- Citizenship.msg	PII - Personal Privacy	
0003872	0003872	0003872	0003883	Park-Su, Sahra (Federal); Willard, Aaron (Federal)	Burton H Reist	Jarmin, Ron S; Lamas, Enrique; Fontenot, Albert E; Crane, Joanne; Treat, James B; Thieme, Michael T	12/15/2017 12:43			Additional Briefing Materials.msg	PII - Personal Privacy	
0003884	0003884	0003884	0003886	Willard, Aaron (Federal); Park-Su, Sahra (Federal); Quinley, Kevin	Burton H Reist	Lamas, Enrique; Fontenot, Albert E; Treat, James B; Thieme, Michael T; Stempowski, Deborah M; Kalluri, Phani-Kumar Atri; Bishop, Deirdre Dalpiaz; Buckner, Stephen L; Crane, Joanne; Christy, James T	12/14/2017 16:47			1-Pagers.msg	PII - Personal Privacy	
0003888	0003888	0003888	0003888	Comstock, Earl (Federal); Herbst, Ellen (Federal)	Langdon, David (Federal)		5/24/2017 17:38			Counting of illegal immigrants.msg	PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Pre-decisional analysis and opinions in anticipation of litigation.

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0003889	0003889	0003889	0003891	Rockas, James (Federal); Manning, Kevin (Federal); Cook, Michael C; Reist, Burton H; Platt, Mike (Federal); Lang, Alan; Lenihan, Brian (Federal); Mason, Jacque (Federal); Taylor, Christine E; Shopkorn, Jennifer	Stephen L Buckner	Jarmin, Ron S; Lamas, Enrique; Hernandez, Israel (Federal); Kelley, Karen (Federal)	12/18/2017 14:55			Draft language.msg	PII - Personal Privacy	
0003892	0003892	0003892	0003900	Comstock, Earl (Federal); Teramoto, Wendy (Federal); Walsh, Michael (Federal); Leach, Macie (Federal); Rockas, James (Federal); Uthmeier, James (Federal)	Williams, Allaire (Federal)		3/26/2018 17:37			FW: re-signed Citizenship Question Memo to KDK/ESA - REVISED .msg	PII - Personal Privacy	
0003901	0003901	0003901	0003902	Davidson, Peter (Federal); Walsh, Michael (Federal); Uthmeier, James (Federal)	Robinson, Barry (Federal)	Hyson, Beverly (Federal)	2/22/2018 15:29			FW: Citizenship Question - Legal Propriety of DOJ Request.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Emails with counsel about revisions to draft memo about citizenship question
0003902	0003902	0003901	0003902	Davidson, Peter; Uthmeier, James	Robinson, Barry		2/22/2018		2/22/2018 1:24 PM	Revised Opinion on DOJ Census Questionnaire Request_022218.docx	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Draft pre-decisional memo to counsel about citizenship question
0003903	0003905	0003903	0003905	Uthmeier, James (Federal)	McClelland, Michelle O (Federal)	Keller, Catherine (Federal)	1/11/2018 12:48			Fwd: Steering Committee Read Ahead -- Citizenship.msg	PII - Personal Privacy	
0003906	0003906	0003906	0003913	N/A	Platt, Mike		3/9/2018	O'Connor, Kasey (Federal)	3/22/2018 7:34 PM	SWR Call - Kay Cole James 3-23-18.docx	PII - Personal Privacy; DP - Deliberative Process	Predecisional and deliberative briefing memorandum for Secretary prepared in advance of stakeholder call with Dr. Kay Coles James, PhD.
0003907	0003907	0003906	0003913	N/A	Platt, Mike		3/22/2018	O'Connor, Kasey (Federal)	3/22/2018 6:53 PM	SWR Call - Cummings 3-23-18.docx	DP - Deliberative Process	Predecisional and deliberative briefing memorandum for Secretary prepared in advance of stakeholder call with Congressman Cummings.

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0003983	0003983	0003983	0003983	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	Wilbur Ross	8/16/2017 16:24			Re: Memo on Census Question.msg	PII - Personal Privacy	
0003984	0003984	0003984	0003984	Comstock, Earl (Federal)	Wilbur Ross		8/10/2017 15:38			Re: Census Matter.msg	PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Discussing responding on citizenship question, including discussion in anticipation of litigation, and redacted other unrelated matters.
0003985	0003986	0003985	0003986	Lamas, Enrique	Comstock, Earl (Federal)	Kelley, Karen (Federal); Willard, Aaron (Federal); Jarmin, Ron S; Fontenot, Albert E; Abowd, John Maron; Reist, Burton H; Velkoff, Victoria A	1/31/2018 19:28			Re: Q/As on Citizenship.msg	PII - Personal Privacy	
0003987	0003989	0003987	0003989	Langdon, David (Federal); Davidson, Peter (Federal)	Comstock, Earl (Federal)	Uthmeier, James (Federal); Willard, Aaron (Federal); Park-Su, Sahra (Federal)	1/30/2018 11:41			Re: questions re: draft census memo.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Emails with counsel about questions on draft census memo
0003990	0004001	0003990	0004001	Leach, Macie (Federal)	Comstock, Earl (Federal)		10/30/2017 14:58			FW: Answers to Secretary Ross's Questions.msg	PII - Personal Privacy; DP - Deliberative Process	Discussing draft briefing/prep for hearing
0004002	0004003	0004002	0004003	Wilbur Ross	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	8/31/2017 23:21			Re: [REDACTED]	PII - Personal Privacy; Proprietary Information	Redacted information not relevant to census, concerning only other matters
0004004	0004004	0004004	0004004	Wilbur Ross	Comstock, Earl (Federal)		8/8/2017 15:44			Re: [REDACTED]	PII - Personal Privacy	

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0005245	0005247	0005245	0005247	Ron S Jarmin	Burton H Reist	Enrique Lamas; Albert E Fontenot; Joanne Crane; Stephen L Buckner	1/24/2018 09:37			Need DOC Guidance -- Race/Ethnicity Questions and Citizenship.msg	PII - Personal Privacy	
0005248	0005250	0005248	0005250	Ron S Jarmin; Enrique Lamas	Stephen L Buckner		1/24/2018 08:35			Fw: DOC Clearance Update.msg	PII - Personal Privacy	
0005251	0005252	0005251	0005337	Kelley, Karen (Federal)	Albert E Fontenot	Ron S Jarmin; Enrique Lamas; Burton H Reist	1/23/2018 17:55			Slide Deck for January 2020 Census Program Management Review.msg	PII - Personal Privacy	
0005338	0005338	0005338	0005347	Karen Kelley	Ron S Jarmin	Enrique Lamas	1/19/2018 14:44			Fw: Draft Technical Review of the DoJ Request.msg	PII - Personal Privacy	
0005403	0005408	0005403	0005410	Numerous	Sara Buettner Connelly		1/18/2018 10:53			Week Ahead report for OCIA - January 18, 2018.msg	PII - Personal Privacy	
0005418	0005418	0005417	0005418	Davidson, Peter; Uthmeier, James	Robinson, Barry		1/9/2018	Robinson, Barry (Federal)	1/9/2018 1:42 PM	Revised Opinion on DOJ Census Questionnaire Request - Citizenship_ju_1_9_18.docx	AC - Attorney Client Privilege	Attorney-client legal memorandum re DOJ request
0005419	0005421	0005419	0005421	Ron S Jarmin; Enrique Lamas	Stephen L Buckner	Michael C Cook; Christine E Taylor; Burton H Reist	1/16/2018 07:57			Wall Street Journal op editorial .msg	PII - Personal Privacy	
0005422	0005423	0005422	0005423	Burton H Reist; Enrique Lamas	Ron S Jarmin	Albert E Fontenot; Joanne Crane; Stephen L Buckner	1/12/2018 12:11			Re: 2 Items in Clearances -- Citizenship and Residence Criteria.msg	PII - Personal Privacy	
0005424	0005427	0005424	0005428	Enrique Lamas	Burton H Reist	Ron S Jarmin; Albert E Fontenot; Joanne Crane; Stephen L Buckner	1/12/2018 10:08			Re: 2 Items in Clearances -- Citizenship and Residence Criteria.msg	PII - Personal Privacy	
0005428	0005428	0005424	0005428	N/A	Ross, Wilbur		1/00/2018	Amy Smith (CENSUS/POP FED)	1/12/2018 10:08 AM	Citizenship Question_Response to Congressional Inquiries_01-12-18_v-2.docx	DP - Deliberative Process	Predecisional draft response to stakeholder letters

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0005429	0005434	0005429	0005437	Numerous	Tara Tadlock		1/12/2018 09:45			Week Ahead report for OCIA - January 11, 2018.msg	PII - Personal Privacy	
0005438	0005439	0005438	0005440	Ron S Jarmin; Enrique Lamas; Albert E Fontenot	Burton H Reist	Joanne Crane; Stephen L Buckner; Benjamin Taylor; Ceci Adriana Villa Ross; Alan Lang; Tara Tadlock	1/12/2018 09:02			2 Items in Clearances -- Citizenship and Residence Criteria.msg	PII - Personal Privacy	
0005440	0005440	0005438	0005440	N/A	Ross, Wilbur		1/00/2018	Amy Smith (CENSUS/POP FED)	1/12/2018 8:51 AM	Citizenship Question_Response to Congressional Inquiries_01-12-18.docx	DP - Deliberative Process	Predecisional draft response letter to stakeholderse
0005441	0005441	0005441	0005443	Enrique Lamas	Stephen L Buckner		1/9/2018 14:42			Fw: Citizenship Timeline .msg	PII - Personal Privacy	
0005444	0005444	0005444	0005444	Robin J Bachman; Enrique Lamas; Ron S Jarmin; James T Christy	Timothy P Olson		1/5/2018 17:20			Re: Perspective | I've been a census enumerator. Asking about citizenship is a terrible idea. from The Washington Post.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Discussions among counsel providing legal advice on whether a person who was interviewed by WaPo on the citizenship question violated Title 13.
0005452	0005454	0005452	0005454	Enrique Lamas	Ron S Jarmin		1/5/2018 09:04			Fwd: DOJ request to the Census Bureau.msg	PII - Personal Privacy	
0005455	0005456	0005455	0005456	Karen Kelley	Arturo Vargas	Ron S Jarmin; Enrique Lamas	1/4/2018 18:44			RE: DOJ request to the Census Bureau.msg	PII - Personal Privacy	
0005457	0005458	0005457	0005458	Karen Kelley	Arturo Vargas	Ron S Jarmin; Enrique Lamas	1/4/2018 18:35			DOJ request to the Census Bureau.msg	PII - Personal Privacy	

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0009793	0009798	0009793	0009798	Jarmin, Ron S	S. Park-Su		3/13/2018 10:38			Re: Phone call with Secretary Ross.msg	PII - Personal Privacy	
0009799	0009800	0009799	0009801	Kelley, Karen (Federal)	S. Park-Su	Willard, Aaron (Federal)	9/5/2017 11:04			Items to cover w/ Izzy.msg	PII - Personal Privacy	
0009802	0009809	0009802	0009809	Park-Su, Sahra (Federal)	Ron S Jarmin		3/13/2018 10:46			Re: Phone call with Secretary Ross.msg	PII - Personal Privacy	
0009810	0009810	0009810	0009811	Walsh, Michael (Federal); O'Connor, Kasey (Federal)	Park-Su, Sahra (Federal)	Lenihan, Brian (Federal)	3/20/2018 23:50			Summaries.msg	DP - Deliberative Process	Pre-decisional draft call summaries
0009811	0009811	0009810	0009811	N/A	N/A		3/12/2018	SP S	3/20/2018 6:55 PM	Summaries (3.12.18).docx	DP - Deliberative Process	Pre-decisional draft call summaries
0009834	0009834	0009834	0009834	Ross, Wilbur	Comstock, Earl		9/8/2017	Comstock, Earl (Federal)	9/8/2017 11:57 AM	Memo on Census Calls with DOJ.docx	DP - Deliberative Process	Deliberative inter-agency communications regarding census discussions with DOJ
0009843	0009843	0009843	0009843	N/A	N/A			No metadata available	7/16/2018 3:37 PM	WLR Notes on Draft Decision Memorandum.pdf	WP - Work Product; DP - Deliberative Process	Detailed and thorough handwritten questions, comments, and revisions from Secretary on questions related to citizenship memo
0009856	0009856	0009856	0009856	N/A	N/A		12/28/2017	No metadata available	7/18/2018 6:23 PM	KDK 2018 Census Test Dec 2017.pdf	DP - Deliberative Process	Pre-decisional draft of potential survey questionnaire for census test with handwritten notes
0009857	0009857	0009857	0009857	N/A	N/A			No metadata available	7/18/2018 6:18 PM	KDK 2018 Census Test Form.pdf	DP - Deliberative Process	Handwritten notes on draft of census test survey questionnaire

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0010244	0010244	0010244	0010244	N/A	N/A		3/15/2018	No metadata available	7/20/2018 9:46 AM	kdk call agenda for secretary ross, march 15, 2018.pdf	DP - Deliberative Process	Internal pre-call briefing for Secretary Ross and handwritten notes
0010245	0010245	0010245	0010245	N/A	Census Bureau		3/9/2018	No metadata available	7/20/2018 9:46 AM	kdk Camerota, Steve - briefing memo for secretary ross, march 13, 2018.pdf	DP - Deliberative Process	Internal pre-call briefing memo for Secretary Ross with handwritten notes
0010246	0010246	0010246	0010246	N/A	Platt, Mike		3/9/2018	No metadata available	7/20/2018 9:46 AM	kdk Carper, Tom - briefing memo for secretary ross, march 12, 2018.pdf	DP - Deliberative Process	Internal pre-call briefing memo for SWR with handwritten notes
0010248	0010248	0010248	0010248	N/A	N/A		After 1/31/2018	No metadata available	7/20/2018 9:46 AM	kdk census memo, 2018.pdf	DP - Deliberative Process	Draft of potential census memo from Secretary with handwritten notes
0010249	0010249	0010249	0010249	Kelley, Karen Dunn; Uthmeier, James	Feitas, Jessica		2/5/2018	No metadata available	7/20/2018 9:46 AM	kdk census questions around the world, Feb. 5, 2018.pdf	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Draft pre-decisional memo from counsel re census citizenship question in foreign countries with handwritten notes
0010250	0010250	0010250	0010250	N/A	Platt, Mike		3/14/2018	No metadata available	7/20/2018 9:46 AM	kdk Connolly, Gerry - briefing memo for secretary ross, march 15, 2018.pdf	DP - Deliberative Process	Pre-call briefing memo for Secretary Ross with handwritten notes
0010251	0010251	0010251	0010251	N/A	N/A			No metadata available	7/18/2018 6:37 PM	KDK Copy of answered Questions w notes.pdf	DP - Deliberative Process	Handwritten notes on internal draft questions on Jan 19 draft census memo on citizenship question reinstatement request
0010273	0010273	0010273	0010273	Ross, Wilbur	Abrowd, John		2/5/2018	No metadata available	7/18/2018 6:39 PM	KDK Copy of Jan 19 memo w notes (2).pdf	DP - Deliberative Process	Predecisional draft of January 19, 2018 Abowd memo with handwritten notes

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0010281	0010284	0010281	0010284	N/A	N/A		7/22/1991	No metadata available	7/19/2018 7:56 PM	kdk fed register, part III Dept. of Commerce, july 22, 1991.pdf	DP - Deliberative Process	Handwritten deliberative pre-decisional notes redacted
0010285	0010285	0010285	0010285	N/A	N/A			No metadata available	7/20/2018 9:46 AM	kdk final record, Feb. 2018.pdf	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Predecisional draft list of administrative record considerations
0010286	0010286	0010286	0010286	N/A	N/A			No metadata available	7/20/2018 9:46 AM	kdk final record.pdf	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Predecisional draft list of administrative record considerations
0010287	0010287	0010287	0010287	N/A	N/A		2/22/2018	No metadata available	7/19/2018 7:58 PM	KDK FOIA Requests on SOGI and Citizenship FY17 and FY18 02222018.pdf	WP - Work Product; DP - Deliberative Process	Internal list and status of pending FOIA requests on citizenship and SOGI question
0010288	0010288	0010288	0010288	N/A	N/A		2/22/2018	No metadata available	7/20/2018 9:46 AM	kdk follow-up census issues, February 22, 2018.pdf	DP - Deliberative Process	Pre-meeting agenda for internal meeting, with handwritten notes
0010289	0010289	0010289	0010289	N/A	Platt, Mike		3/9/2018	No metadata available	7/20/2018 9:46 AM	kdk Hood, Jim - briefing memo for secretary ross, march 12, 2018.pdf	DP - Deliberative Process	Pre-call briefing memo with suggested talking points for Secretary's call with Attorney General Hood, with handwritten notes
0010290	0010290	0010290	0010290	N/A	Lenihan, Brian		3/9/2018	No metadata available	7/20/2018 9:46 AM	kdk Howard, Jerry - briefing memo for secretary ross, march 13, 2018.pdf	DP - Deliberative Process	Pre-call briefing memo with suggested talking points for Secretary's call with Attorney Jerry Howard, with handwritten notes
0010291	0010291	0010291	0010291	Ross, Wilbur	Abrowd, John		1/19/2018	No metadata available	7/18/2018 6:33 PM	KDK Jan 19 Abowd memo w notes.pdf	DP - Deliberative Process	Predecisional draft of January 19, 2018 Abowd memo with handwritten notes

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0010298	0010298	0010298	0010298	N/A	Census Bureau		3/12/2018	No metadata available	7/20/2018 9:46 AM	kdk Murdock, Steve - briefing memo for secretary ross, march 15, 2018.pdf	DP - Deliberative Process	Pre-call briefing memo with suggested talking points for Secretary's call with Steve Murdock, with handwritten notes
0010299	0010299	0010299	0010299	N/A	N/A			No metadata available	7/20/2018 9:46 AM	kdk notes and questions census, January 2018.pdf	DP - Deliberative Process	Pre-decisional deliberative handwritten notes on lined notepaper on census and non-census issues
0010300	0010300	0010300	0010300	Jarmin, Ron S	Abowd, John		1/3/2018	No metadata available	7/18/2018 6:35 PM	KDK Notes on Jan 3 Memo to Jarmin.pdf	DP - Deliberative Process	Draft predecisional memo from John Abowd addressing alternatives for responding to DOJ request, with handwritten notes
0010301	0010301	0010301	0010301	N/A	N/A		2/26/2018	No metadata available	7/20/2018 9:46 AM	KDK Outstanding Decennial Correspondance 02262018.pdf	DP - Deliberative Process	Internal draft chart with status of response to correspondence on citizenship question
0010302	0010310	0010302	0010310	Welsh, Kelly	Gary, Arthur	Samuels, Jocelyn; Lofthus, Lee; Mason, Karol; Mizer, Ben; Sabol, William	6/25/2014	No metadata available	7/20/2018 9:46 AM	kdk packet information Jan. 2018.pdf	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	First two pages -- two draft outlines on administrative record considerations, with handwritten notes; fifth page -- handwritten pre-decisional deliberative notes; last page -- excerpted information from ACS handbook and handwritten pre-decisional deliber

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0010341	0010341	0010341	0010341	N/A	N/A		1/00/2018	No metadata available	7/20/2018 9:47 AM	kdk questions for AG Sessions, Jan. 2018.pdf	WP - Work Product; DP - Deliberative Process	one page of proposed questions for meeting with Sessions, with handwritten notes; one page of Qs&As with handwritten notes; two pages on sexual and gender identity with handwritten notes; one page of org chart for preparing admin record
0010342	0010345	0010342	0010345	Jarmin, Ron; Kelley, Karen (Federal); Willard, Aaron (Federal), Uthmeier, James (Federal); Davidson, Peter (Federal)	Comstock, Earl (Federal)		1/30/2018	No metadata available	7/20/2018 9:47 AM	kdk questions on the January 19 Alternatives Memo, Jan. 30, 2018.pdf	PII - Personal Privacy; DP - Deliberative Process	redacted personal reasons for employee's absence and list of draft questions
0010346	0010346	0010346	0010346	N/A	N/A		3/26/2018	No metadata available	7/20/2018 9:47 AM	kdk roll out plan 2020 census questions delivery, march 26, 2018.pdf	DP - Deliberative Process	predecisional draft rollout plan for delivery of census questions
0010347	0010347	0010347	0010347	N/A	N/A		3/26/2018	No metadata available	7/20/2018 9:47 AM	kdk roll out plan, march 26, 2018.pdf	DP - Deliberative Process	predecisional draft roll-out plan for census question delivery, with handwritten annotations
0010348	0010348	0010348	0010348	N/A	Platt, Mike		2/28/2018	No metadata available	7/20/2018 9:47 AM	kdk Schatz, Brian - briefing memorandum for secretary ross, February 28, 2018.pdf	DP - Deliberative Process	pre-call briefing memo and talking points for Secretary's call with Senator Schatz
0010349	0010349	0010349	0010349	Ross, Wilbur	Abowd, John		2/20/2018	No metadata available	7/20/2018 9:47 AM	kdk status of mous for in support of administrative record provisioning of citizenship status, Feb. 20, 2018.pdf	DP - Deliberative Process	draft memo reporting status of MOUs with SSA, USCIS, and State
0010350	0010350	0010350	0010350	N/A	N/A			No metadata available	7/20/2018 9:47 AM	kdk summary analysis of tbe key differences between alt c and d, 2018.pdf	DP - Deliberative Process	draft memo analyzing alternatives C and D, with handwritten annotation

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0010351	0010351	0010351	0010351	N/A	N/A			No metadata available	7/20/2018 9:47 AM	kdk summary analysis of the key differences between alt c and d, 2018.pdf	DP - Deliberative Process	draft memo analyzing alternatives C and D, with handwritten annotation
0010352	0010352	0010352	0010352	N/A	N/A			No metadata available	7/20/2018 9:47 AM	kdk summary of alternatives, 2018.pdf	DP - Deliberative Process	draft of Jan. 19 Abowd memo.
0010353	0010353	0010353	0010353	N/A	Ross, Wilbur		1/00/2018	No metadata available	7/20/2018 9:47 AM	kdk template letter 2020 census, January 2018 .pdf	DP - Deliberative Process	draft template for responding to public comments on citizenship question.
0010355	0010355	0010355	0010355	N/A	Census Bureau		3/9/2018	No metadata available	7/20/2018 9:47 AM	kdk Vargas, Arturo - briefing memo for secretary ross, march 13, 2018.pdf	DP - Deliberative Process	pre-call briefing memo and talking points for Secretary's call with Arturo Vargas, with handwritten notes from call
0010356	0010356	0010356	0010356	N/A	N/A			No metadata available	7/20/2018 9:47 AM	kdk, summary analysis of key differences between alt c and alt d, 2018.pdf	DP - Deliberative Process	draft of comparison of alternatives C and D, with handwritten annotations
0010357	0010359	0010357	0010359	N/A	N/A			No metadata available	7/20/2018 10:03 PM	2016 Breakoff Rates by Race Group_DR_original20180118.pdf	Proprietary Information	Redactions pursuant to Title 13
0010382	0010384	0010382	0010384	N/A	N/A			No metadata available	7/20/2018 10:03 PM	EMBARGOED Breakoffs by Screen and His_Race Group_Percents 2_DR_original20180116.pdf	Proprietary Information	Redactions pursuant to Title 13
0010385	0010385	0010385	0010385	N/A	N/A			No metadata available	7/20/2018 10:03 PM	EMBARGOED CIT item_nr_groupbypanelbymode_DR_original20180112.pdf	Proprietary Information	Redacted pursuant to Title 13
0010386	0010393	0010386	0010393	N/A	Center for Survey Measurement		9/20/2017	No metadata available	7/20/2018 10:04 PM	Memo regarding respondent confidentiality concerns_170921_DR_original20171220.pdf	PII - Personal Privacy; Proprietary Information	Material subject to Title 13

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011035	0011035	0011035	0011036	Robinson, Barry (Federal); Creech, Melissa L	Uthmeier, James (Federal)	Davidson, Peter (Federal)	1/5/2018 12:44			PL-DOC-WH_189-0 20180105 546PM RE Legal Review of DOJ's Citizenship Request.msg	AC - Attorney Client Privilege; WP - Work Product	Communications among attorneys regarding drafting of legal memo providing advice to agency officials regarding reinstatement of citizenship question
0011036	0011036	0011035	0011036	Ross, Wilbur	N/A		1/5/2018	Uthmeier, James (Federal)	1/5/2018 12:34 PM	Legal Memo to SWR re DOJ Citizenship Request Draft Jan 5 2018.docx	AC - Attorney Client Privilege; WP - Work Product	Draft attorney legal memo providing advice to agency officials regarding DOJ request to reinstate citizenship question
0011047	0011047	0011047	0011047	Ross, Wilbur	Kelley, Karen Dunn		12/8/2017	rogal002	12/7/2017 8:23 AM	CENSUS Memo for Ross Race Eth.doc	DP - Deliberative Process	Draft memo to Secretary of commerce on 2020 census contingency plans for race & ethnicity questions
0011048	0011048	0011048	0011048	Ross, Wilbur	Kelley, Karen Dunn		12/8/2017	rogal002	12/7/2017 8:22 AM	CENSUS Memo for Ross Res Criteria.doc	DP - Deliberative Process	Draft memo to Secretary of Commerce on proposed residence criteria & residence situations for 2020 census
0011160	0011162	0011160	0011162	Lenihan, Brian (Federal)	Zadrozny, John A.	Uthmeier, James (Federal); Hamilton, Gene (OAG); Sherk, James B.	2/21/2018 18:02			RE: Conversation Next Week.msg	PII - Personal Privacy	
0011163	0011164	0011163	0011164	Zadrozny, John A.	Lenihan, Brian (Federal)	Uthmeier, James (Federal); Hamilton, Gene (OAG); Sherk, James B.	2/21/2018 17:52			Re: Conversation Next Week.msg	PII - Personal Privacy	

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011231	0011233	0011231	0011233	Page, Ben J.	Ron S. Jarmin	Nancy A. Potok; Snyderman, Rachel B.; Enrique Lamas	12/19/2017 21:34			Re: Census Question Request.msg	PII - Personal Privacy; DP - Deliberative Process	Redacted material consists of predecisional suggestions on strategy for addressing DOJ request
0011234	0011236	0011234	0011236	Ron S Jarmin; Nancy A. Potok	Page, Ben J.	Snyderman, Rachel B.	12/19/2017 17:54			FW: Census Question Request.msg	PII - Personal Privacy; DP - Deliberative Process; Proprietary Information	Deliberations and opinions re first steps for addressing DOJ letter
0011237	0011244	0011237	0011244	Melissa L Creech	Letitia W McKoy		1/8/2018 08:48			Re: Revised Opinion on DOJ Census Questionnaire Request - Citizenship_mc.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Emails between counsel deliberating on legal advice to Secretary
0011245	0011245	0011245	0011245	Page, Ben J.; Ron S Jarmin	Potok, Nancy A.	Snyderman, Rachel B.	12/20/2017 14:51			RE: DOJ Letter Dec 12 2017.pdf.msg	PII - Personal Privacy	
0011246	0011246	0011246	0011246	Ron S Jarmin	Page, Ben J.	Nancy A. Potok; Snyderman, Rachel B.	12/20/2017 13:07			Re: DOJ Letter Dec 12 2017.pdf.msg	PII - Personal Privacy	
0011247	0011247	0011247	0011247	N/A	N/A		1/11/2018	No metadata available	7/20/2018 9:46 AM	kdk agenda for steering committee meeting, Jan. 11, 2018.pdf	DP - Deliberative Process	Handwritten deliberative pre-decisional notes on agenda for internal meeting
0011248	0011249	0011248	0011249	N/A	N/A		2/15/2018	No metadata available	7/20/2018 9:46 AM	KDK Agenda Prep for Sec. Monthly Oversight Briefing 02152018.pdf	DP - Deliberative Process	Handwritten notes on internal meeting agenda
0011250	0011251	0011250	0011251	N/A	N/A			No metadata available	No metadata available	KDK Questions re Jan 19 memo w notes (2).pdf	DP - Deliberative Process	draft list of questions about citizenship memo, with handwritten notes on interim thoughts
0011252	0011252	0011252	0011252	N/A	N/A			No metadata available	No metadata available	KDK Questions re Jan 19 memo w notes.pdf	DP - Deliberative Process	draft list of questions on citizenship memo with handwritten notes

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011354	0011354	0011354	0011354	Schnell, Austin (Federal)	Uthmeier, James (Federal)		7/11/2017 17:56			Re: Hearing Prep - Census.msg	PII - Personal Privacy	
0011355	0011355	0011355	0011355	Shambon, Leonard (Federal)	Uthmeier, James (Federal)		6/27/2017 08:23			Census.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	discussion of request for legal advice
0011356	0011356	0011356	0011356	Comstock, Earl (Federal); Uthmeier, James (Federal); Kelley, Karen (Federal)	Walsh, Michael (Federal)		3/24/2018 12:26			proposed insert on response rate.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Discussion of proposed language for decision memo
0011357	0011360	0011357	0011361	Walsh, Michael (Federal); Comstock, Earl (Federal); Kelley, Karen (Federal)	Uthmeier, James (Federal)		3/24/2018 11:22			Re: Draft DOC Decision Memo.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Email exchange including Commerce counsel and DOJ litigation counsel discussing draft decision memo and proposing edits
0011361	0011361	0011357	0011361	n/a	n/a		n/a	Uthmeier, James (Federal)	3/24/2018 8:22 AM	Census decision memo draft 3.23.18.docx	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Draft decision memo in track changes mode
0011362	0011362	0011362	0011363	Ross, Wilbur	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	8/11/2017 16:12			Memo on Census Question.msg	PII - Personal Privacy; DP - Deliberative Process	Discussion of process for preparing and reviewing legal memo.
0011363	0011363	0011362	0011363	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 4:07 PM	Census Memo Draft2 Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census
0011364	0011364	0011364	0011365	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/13/2017 18:30			Census Responses .msg	PII - Personal Privacy	
0011365	0011365	0011364	0011365	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As for hearing prep

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 1:18-CF-05025-JMF
----------X
NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

- against -

UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,

Defendants.
----------X

August 24, 2018
9:07 a.m.

Videotaped Deposition of WENDY TERAMOTO, taken by Plaintiffs, pursuant to Notice, held at the offices of Arnold & Porter Kaye Scholer LLP, 250 West 55th Street, New York, New York, before Todd DeSimone, a Registered Professional Reporter and Notary Public of the State of New York.

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CARLOS KING, Videographer

I N D E X

WITNESS	EXAMINATION BY	PAGE
TERAMOTO	GERSCH	9
	GOMEZ	142
	CASE	170
	WELLS	241

E X H I B I T S

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Exhibit 6	Bates 0002519-0002520	63
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Exhibit 12	Bates 001313-001320	115
Exhibit 13	Bates 0003694	195
Exhibit 14	Bates 0003695-0003697	199
Exhibit 15	Prepared Statement of John H. Thompson	205
Exhibit 16	Bates 0002167-0002169	211
Exhibit 17	Bates 0002646-0002648	216
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Exhibit 21	Bates 0003597	229

DIRECTIONS NOT TO ANSWER

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REQUESTS

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(NONE)	

THE VIDEOGRAPHER: Good morning. We are going on the record at 9:07 a.m. on August 24th, 2018.

Please note that the microphones are sensitive and may pick up whispering, private conversations and cellular interference. Please turn off all cell phones or place them away from the microphones as they can interfere with the deposition audio. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit number one of the video-recorded deposition of Wendy Teramoto taken by counsel for plaintiffs in the matter of New York Immigration Coalition, et al., versus United States Department of Commerce, et al., filed in the United States District Court, Southern District of New York, case number 1:18-CF-05025-JMF. This deposition is being held at the offices of Arnold & Porter located at 250 West 55th Street, New York, New York.

My name is Carlos King from the firm of Veritext and I am the videographer. The court reporter is Todd DeSimone also from Veritext. I'm not authorized to administer an oath, I'm not related to any party in this action, nor am I financially interested in the outcome.

All appearances will be noted on the steno record. Will the court reporter please swear in the witness.

* * *

W E N D Y T E R A M O T O,

called as a witness, having been first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. GERSCH:

Q. Please state your name and work address.

A. My name is Wendy Teramoto and I work at the Department of Commerce in Washington.

Q. Do you do your work in Washington D.C.?

A. Yes, sir.

Q. And how are you employed at the

Department of Commerce? What is your position or title?

A. I am the chief of staff and senior advisor.

Q. And for how long have you held that position?

A. Just about a year.

Q. Let's go back a little. I want to get some background first and then we will move forward.

I understand that you graduated from the University of Colorado at Boulder; is that right?

A. Yes, sir.

Q. In 1996?

A. Yes, sir.

Q. With a degree in accounting?

A. Yes, sir.

Q. And graduated with honors?

A. Yes, sir.

Q. You are a founding partner of WL Ross & Company in 2000?

A. I believe it was 2000, yes, sir.

Q. What did you do between

graduation from the University of Colorado and starting WL Ross?

A. Sure. So after I graduated I worked for one year at Price Waterhouse in New York City and then after Price Waterhouse I started working at a firm called Rothschild.

Q. And what did you do at Rothschild?

A. At Rothschild I started as an associate, and Rothschild is a huge investment banking firm and so I worked on some of the M&A transactions as well as the Rothschild Recovery Fund.

Q. When did you first meet Secretary Ross?

A. It would have been when I started working at Rothschild.

Q. Was he at Rothschild?

A. Yes, sir.

Q. And did you work on matters with him?

A. Yes, sir.

Q. What kind of matters?

A. The Rothschild Recovery Fund.

Q. So would this have started in about 1997-1998?
A. 1997.
Q. How did you become a founding partner of WL Ross?
MS. WELLS: I object to the form.
A. I don't understand the question.
Q. Well, let me ask this: You are an equity partner in -- you were an equity partner in WL Ross?
MS. WELLS: I object to the form.
A. Well, in WL Ross, the holding company?
Q. Let's start with that, sure.
A. There was only two owners, owners, that I believe of the, as you call, equity in WL Ross & Co.
Q. And who were they?
A. That would have been Wilbur Ross and his daughter.
Q. The WL Ross that you were a founding partner of, is that the holding

company or a different WL Ross?
A. There is the WL Ross & Co., which I was a founding partner in.
Q. And what did it mean to be a founding partner?
A. I was one of -- to me, I don't know what your interpretation --
Q. Yours is fine.
A. To me, you know, I was one of the original employees/partners of the firm.
Q. And how many original employees/partners were there?
A. I don't remember right now.
Q. Was it ten or was it five or was it twenty or some other number, roughly? I'm trying to get a rough sense.
A. Again, I don't remember.
Q. Do you hold -- I assume you no longer hold a position at WL Ross?
MS. WELLS: I object to the form.
Q. Is that correct?
A. I am no longer employed at WL Ross & Co.

Q. Do you have any continuing involvement with any of the companies that WL Ross & Co. either invested in or started?

MS. WELLS: I'm going to object to the form.

Q. You can answer.

A. Can you repeat the question, please?

Q. The question is whether --

A. I asked him to repeat it.

Q. That's all right, I'm allowed to do it.

MR. WALSH: She is also allowed to ask the court reporter. Let's have the court reporter read the question back. Let's not bully the witness in the first five minutes of the deposition.

A. You asked a very specific question, sir, and I don't want you to paraphrase it unless you say the exact same thing.

Q. Ma'am, I'm allowed to change the question.

A. Okay.

Q. The question will be what I ask. Let's do this: Have you been deposed before?
A. Yes, sir.
Q. How many times?
A. Times in terms of cases or times in terms of days?
Q. On how many -- in how many cases have you been deposed, roughly?
A. I think two.
Q. Have you given testimony at trial or at hearing before?
A. Yes.
Q. In how many cases?
A. Once.
Q. What was the case about?
A. My neighbor, my former neighbor, had gotten into trouble and so they had called me as a witness to see if he lived in the building.
Q. Got it.
A. So I had to go to court to testify that I had seen him in the building.
Q. All right. So I don't know how

the other depositions were conducted, I'm going to ask you questions, all I ask is that you answer them truthfully. If you don't understand them, please ask me to rephrase, tell me you don't understand, or something like that. Can we agree on that?

A. Sure.

Q. If you need to take a break at any time, just let us know and we will take a break. No one is here, you know, this is not prison, so will you agree to do that?

A. If I need to take a break, I will definitely let you know.

Q. And these fine folks, they may want you to take a break at some point.

A. Sure, or this whole plethora of people.

Q. Yes. Is there any reason you can't give truthful testimony here today?

A. No, sir.

Q. Do you have any other source of -- are you employed in any other way other than in your position at the Department of Commerce right now?

A. My only employment is at the

Department of Commerce.

Q. And when did you start working at the Department of Commerce?

A. Sometime in 2017.

Q. Early 2017?

A. I mean, I can guess.

Q. I don't want you to guess. I'm asking you for an understanding, your best recollection.

A. My best recollection would have been in about March of 2017.

Q. When did Mr. Ross ask you to be chief of staff?

A. I don't remember.

Q. You said you also hold a position of senior advisor; is that right?

A. Sure.

Q. Do those have different duties than chief of staff?

A. I'm not sure how to answer that question.

Q. All right. Let's ask this: There came a time when Mr. Ross asked you to become chief of staff certainly?

A. Well, we had talked about it

clearly.

Q. And what did he say to you and what did he say he wanted you to do in that position?

A. I mean, I don't remember. This was, you know, well over, you know, well over a year and a half, two years ago.

Q. And you don't remember anything about your discussion with Mr. Ross when he asked you to be chief of staff for the Secretary of Commerce?

A. Nothing specific. We had generally talked about whether I would want to be involved, but there was no -- I mean, neither myself nor Mr. Ross, to my knowledge, I certainly have never worked in the government before, so an idea of a chief of staff, you know, I was there to help him. I don't think -- we never had a discussion of I need my chief of staff to do this, because, to my knowledge, he has never had a chief of staff.

Q. Okay. So did you have a discussion about what he wanted you to do to help him?

A. I don't remember ever having a specific question of or discussion of what I was specifically going to do to help him.

Q. Okay. You report directly to him as chief of staff; is that right?

A. Yes, sir.

Q. How would you describe your job?

A. It depends on the day. So I would say a large portion of my job is helping to run the Department of Commerce. The Commerce Department has, you know, I believe a large range of different departments that do different things, and so depending on what's happening there will be different departments that I work more with or different things depending on what's going on.

So, for example, trade is obviously a large thing that the Secretary has been involved in, so I will go to trade meetings, you know, I will work with the other agencies on some of the trade-related issues. You know, it just depends on what's happening that day or that week.

Q. Were you resident in New York before going to the Commerce Department?
A. Yes, sir.
Q. When did you move down to Washington?
A. Well, I'm not sure what you mean by move down. I started spending a lot of my time in, you know, say, March. I'm still a resident in New York but I also own a place in D.C. as well.
Q. Roughly how much time do you spend in D.C.?
A. The vast majority of my time.
Q. Okay. Did other people from any of the WL Ross companies come to Washington to work at Commerce besides yourself?
A. Not that I'm aware of.
Q. Did Brooke Alexander work for any of the WL Ross companies?
A. Not that I know of.
Q. To your knowledge, did she have a prior relationship with the Secretary?
A. Prior to her working at the Department of Commerce?

Q. Correct.
A. No.
Q. By the way, when I refer to the Secretary, will you understand that I mean Secretary Ross?
A. Sure.
Q. How about Under Secretary Karen Dunn Kelley, did she have a prior connection with the Secretary as far as you know?
A. Well, she worked at Invesco She did not work -- I believe that you had asked WL Ross.
Q. I'm just asking about Secretary Kelley now, Under Secretary Kelley, did she have a prior relationship with Secretary Ross?
A. No, but I'm just clarifying your question. You just specifically asked about WL Ross & Co., if anybody came from WL Ross & Co.
Q. I did ask that question earlier. Now I'm asking about Under Secretary Kelley, did she have a prior relationship with the Secretary?

A. Well, she did not work at WL Ross & Co., but she had worked at Invesco and Invesco purchased WL Ross & Co.

Q. Other than yourself -- and I take it Under Secretary Kelley would have known Secretary Ross from that context?

A. Sure.

Q. Other than yourself and Under Secretary Kelley, is there anyone else at the Commerce Department now in a senior position who has had a prior relationship with Secretary Ross?

MS. WELLS: I object to the form.

A. I mean, not to my knowledge, but when you say prior relationship, I mean, the Secretary knows a lot of people, so if he had known somebody and met somebody at some other gathering ten years ago and they happened to now work at Commerce, sir, I just -- I don't know.

Q. I understand.

A. To the -- I'm just thinking through. I can't think of anybody now.

Q. All right. When did you first

hear about the notion of adding a question about citizenship to the census?

A. I just don't remember.

Q. Is there any way you would be able to date that?

A. No.

Q. Is there any kind of document that you remember as -- well, withdrawn.

How did you first hear about the notion of adding a citizenship question to the census?

A. I don't remember.

Q. Would that be reflected in any documents?

A. Not that I would be aware of.

MR. GERSCH: Let's mark as Teramoto Exhibit 1 a document Bates stamped 1321.

(Teramoto Exhibit 1 marked for identification.)

Q. I have handed the witness an exhibit marked Teramoto Exhibit 1 titled The Supplemental Memorandum of Secretary of Commerce Wilbur Ross Regarding the Administrative Record in Census Litigation.

Do you have that in front of you?

A. Yes, sir.

Q. If you look down to the second sentence, Secretary Ross writes "Soon after my appointment as Secretary of Commerce, I began considering various fundamental issues regarding the upcoming 2020 census, including funding and content. Part of these considerations included whether to reinstate a citizenship question, which other senior Administration officials had previously raised."

Let me just stop there. He says that soon after the appointment, his appointment as Secretary of Commerce, if I tell you that he was appointed in February of 2017, shortly before you became chief of staff, does that help you date when you first learned that there was an interest in adding a citizenship question?

A. May I read this, please?

Q. Certainly.

(Witness perusing document.)

A. Okay. This is the first time

I've seen this memo, sir.

Q. All right. Whether it is the first time you have seen it or not -- by the way, that's Secretary Ross' signature on it?

A. It looks like it to me.

Q. That's all I need to know. All right.

My question is whether this document refreshes your recollection that you would have first heard about the idea of adding a citizenship question to the census early in 2017.

MS. WELLS: I object to the form.

A. No. I mean, what I most remember when we talked about the census, and I wasn't really involved in the census sort of overview of the department, the discussions around census I had always remember really had focused on, one was trying to get a handle on the budget and what contracts had already been agreed to, and, you know, where are we in terms of the numbers.

The second thing that was talked about a lot was how is the Census Department going to be able to ramp up the employment of I believe it is half a million people over a very short amount of time and how are we going to do that effectively. And then, you know, what do you do to ensure that there is the most accurate count.

I mean, those are the themes. I don't remember specifically the question that you are talking about.

Q. You don't remember the -- well, withdrawn.

Do you remember that there was a time when the question of adding a citizenship question to the census came up?

MS. WELLS: I object to form.

A. I don't remember a specific conversation or meeting where it came up.

And I should also tell you, sir, you know, I was not -- I was not involved in most of the census meetings at all. I mean, you know, when you look at Commerce, some of the departments that we

have are extremely scientific and technical. NOAA is one of them and Census is another one. So, you know, I was not involved in those areas.

Q. Did you have any responsibility or did you undertake to do anything with respect to getting the citizenship question on the census?

A. I'm not sure what you mean by any responsibility.

Q. Did you undertake any tasks related to trying to get a citizenship question put on the census?

A. Did I personally? No.

Q. None whatsoever?

A. Did I ever -- I guess I'm a little confused. You are asking if I did anything for the citizenship question?

Q. I'm asking if you did anything to try and help get a citizenship question put on the census.

A. No.

MR. GERSCH: Let's mark Teramoto Exhibit 2.

Counsel, this is a two-page

document. The second page, for reasons I don't understand, are blank. I propose only to mark the first page, unless you object.

MS. WELLS: No objection.

(Teramoto Exhibit 2 marked for identification.)

Q. For the record, this is Bates stamped 3699. It is an e-mail thread, the top one of which states that it is from Secretary Ross sent May 2nd, 2017 to Wendy Teramoto, "Re: Census."

Take a moment to read this, I think most of it is blacked out, and let me know when you've had a chance to do that.

(Witness perusing document.)

A. Okay.

Q. Ms. Teramoto, let me direct you to the middle of the document where it says "Begin Forwarded Message: From: Alexander, Brooke, To: Wendy Teramoto."

Do you see that?

A. Uh-huh. Yes, sir.

Q. So this appears that she is forwarding a message, and then the message

that she appears to be forwarding is headed Original Message from Wilbur Ross to Earl Comstock and Ellen Herbst.

You see that, right?

A. Correct. I'm not on the original e-mail.

Q. Correct.

And then Secretary Ross has written "Worst of all, they emphasize they have settled with Congress on the questions to be asked. I am mystified why nothing have been done in response to my months old request that we include the citizenship question. Why not?"

All right, this question appears to have been forwarded to you May 2nd, 2017. Do you remember that?

A. I don't -- I don't remember receiving it.

Q. Do you deny receiving it?

A. No.

Q. And then above the forwarding part, there is a message that says "Wendy Teramoto wrote: I continue to talk frequently with Marc Neumann and we often

have dinner together. He will not leave les, but is in love with the census and talks about it nonstop. Do you want me to set up another meeting? Let me know if you want to have a drink or get together over the weekend."

Then Secretary Ross has written in response to you, "Let's try to stick him in there for a few days to fact-find."

Do you see that?

A. Yes, sir.

Q. So you would have received this at the beginning of May, and the message that is forwarded to you has Secretary Ross complaining that nothing has been done in response to his months-old request that we include a citizenship question.

Does this help you remember that you had some involvement in getting the citizenship question on the census?

A. No.

MS. WELLS: Objection to form.

A. Well, wait a minute. First of all, this is -- this is two sentences out of an e-mail that I have no idea what else

was said. It is titled Census.

So this has -- I mean, just because, you know, for you to imply that because I had suggested he set up a meeting or talk to somebody who worked on the transition team for census has nothing to do with, in my eyes, the citizenship question. It has to do with the census as a whole.

Q. Ms. Teramoto, you started earlier in your answer referencing that there were things in the message that you can't read.

Do you understand that it is the government lawyers who have blocked that information out?

A. Between all the lawyers, I mean, you know, it's not -- I'm not part of the process of what is shown or what's not. I know that they follow the rules and regulations of what they are supposed to do.

Q. My question is, do you understand that it is the government lawyers who have blocked that information

out that you say you can't read on here?
A. If that's what you are telling me, I have no reason to believe that it's not true.
Q. All right. When Secretary Ross says "I'm mystified why nothing have been done in response to my months old request," why did Secretary Ross request as of several months apparently before May 2nd, 2017, why did he request that a citizenship question be included on the census?
A. I have no idea. I mean, as you have correctly pointed out, this was in May. I didn't write the e-mail and I wasn't even -- he didn't even send it to me.
Q. I take it your testimony is that Secretary Ross never told you the reason that he made such a request?
A. I have never asked.
Q. That's not my question. Did he ever tell you?
A. No.
Q. Did you ever learn to whom he made that request?

A. Of what?
Q. The request to add a citizenship question.
MS. WELLS: I object to form.
A. I guess I'm confused. Can you please repeat the question?
Q. Certainly.
He says he "made a months old request that we include a citizenship question." Did you ever learn to whom he made the request?
A. I have no idea.
Q. All right. So this is forwarded to you by Brook Alexander, and you respond by saying that you talk frequently with Marc Neumann and asking if the Secretary wants to meet with him.
Who is Marc Neumann?
A. So Marc Neumann was somebody that I met on the transition team who had worked at Census before.
Q. And did you discuss the citizenship question with Marc Neumann?
A. Did I?
Q. Yes.

A. Not that I remember.
Q. And --
A. Again, a lot of the census focus was on the budget and how are you going to properly ramp up half a million employees in such a short amount of time.
Q. When Secretary Ross says "Let's try to stick him in there for a few days to fact-find," did you do that?
A. I believe so, but I don't -- I believe I did, but I don't remember when.
Q. Okay. And when you say you believe you did, what is it that you had him do? Did you have him go down to the Census Bureau?
A. Have who go down?
Q. Mr. Neumann.
A. No.
Q. When it says "Let's try to stick him in there a few days to fact-find," who is the "him"?
A. I mean, I didn't write the e-mail. If you want me to guess.
Q. This is from the Secretary to you, correct?

A. Correct.
Q. And you are his chief of staff?
A. Well, I wasn't in -- not in that time period.
Q. You weren't the chief of staff on May 2nd, 2017?
A. No.
Q. What were you with respect to Commerce?
A. I was a senior advisor.
Q. In any case, Secretary Ross sent it to you?
A. Sure, on May 2nd, there is an e-mail from Wilbur Ross to me.
Q. And he asked you "Let's try to stick him in there."
A. Correct.
Q. And I'm asking you -- and you said you did it, that was your testimony, correct?
A. You were asking me who is "him," and I'm telling you I think it is Marc Neumann.
Q. That's what I asked. I didn't think you had answered it originally. All

right, thank you.

And where did you stick him for a few days to fact-find?

A. I'm not sure how to answer that question. I don't think I stuck Marc Neumann anywhere.

Q. I'm just using the Secretary's language, it's not yours. Secretary Ross says "Let's stick him in there." Where is "in there"?

A. I believe he is saying let's -- this is me trying to guess what "stick him in there" meant over a year ago, but I believe it is trying to find something on his calendar to meet with him. I don't think he literally meant to stick Marc Neumann somewhere.

Q. So if I understand you correctly, when he says "Let's try and stick him in there for a few days," are you saying what Secretary Ross means is can you get Mr. Neumann on my calendar?

A. I mean, when I look at it, it would have been something like that. There was never a time period when I tried to

stick Marc Neumann in anyplace.

Q. All right. Does your thinking this has to do with getting him on the calendar, does that square with the "for a few days to fact-find"?

A. Again, I mean, you asked me what I thought, if I had read it. I would have said get him on the calendar, even today.

Q. So if I understand your testimony, you were not chief of staff at this time, you were a senior advisor, and so you would have become chief of staff sometime after May 2nd, 2017; is that right?

A. I would -- it is correct to say that I would become chief of staff after May 2nd of 2017.

Q. Do you connect or relate becoming chief of staff to any particular event? I'm trying to get a rough sense of the date. So I'm trying to understand --

A. Oh, you should have just asked.

No, I believe I became chief of staff, I don't have the exact date, sir,

but it was -- I believe it was right at the end of July of 2017.

Q. Did you ever speak with Marc Neumann about the citizenship question?

A. Not that I remember.

Q. You are still chief of staff today, correct?

A. As far as I know, sir.

Q. Let's mark another document. Let's have this marked as Teramoto Exhibit No. 3. It is a two-page document, 763 and 764.

(Teramoto Exhibit 3 marked for identification.)

A. Is this the entire e-mail, sir?

Q. That's what has been produced to us.

A. Okay. Would you like me to read it, sir?

Q. I'm going to ask you a question about it, and at that point I would say read it to the extent you need to read it to answer the question.

A. Okay.

Q. So this is an e-mail chain,

which at the top says from Kris Kobach to Wendy Teramoto, CC Brooke Alexander, Israel Hernandez, date is July 24th, 2017.

And my first question is, who is Kris Kobach?

A. I would like to read the document, sir.

Q. I will withdraw the question. Let me ask you a different question. If you need to read the document to answer that question, it is fine with me.

He was vice chair of the Presidential Advisory Committee on Election Integrity and Secretary of State of Kansas; isn't that right?

A. I have no idea.

Q. All right.

A. He was vice what?

Q. Vice chair of the Presidential Advisory Commission on Election Integrity.

A. Okay.

Q. Is this the first you're hearing that?

A. Yes, sir.

Q. If I tell you he was Secretary

of State of Kansas, have you heard that before?

A. Well, I just read it right here.

Q. So you would have known that back in the day?

A. No.

Q. All right. So Kris Kobach writes an e-mail to you, if you look down that first page, July 21, 2017, he writes "Wendy, nice meeting you on the phone this afternoon. Below is the e-mail I sent to Secretary Ross" --

A. Sir, can I read the whole e-mail, please?

Q. Sure.

A. Thank you.

(Witness perusing document.)

A. Okay.

Q. All right. So there is an e-mail from Kris Kobach to you, July 21, in which he says -- he references meeting you on the phone this afternoon.

Do you recall speaking with Kris Kobach?

A. Not at all.
Q. You don't deny speaking with him?
A. I think you asked me if I remember. I don't remember talking to him.
Q. This is a different question.
You don't deny speaking with him?
A. Given this e-mail, I would assume that I spoke to him, but I don't remember ever speaking to him.
Q. All right. And he asks -- withdrawn.
He says that he had sent an e-mail to Secretary Ross and he attaches it here. You see that, correct?
A. Well, I see his e-mail to me says "Below is the e-mail that I sent to Secretary Ross."
Q. Okay.
A. So I assume however this is produced, it would have been this e-mail.
Q. All right. And one of the things that the e-mail that Kris Kobach forwards to you, one of the things in it is

the statement "It is essential that one simple question be added to the upcoming 2020 census," that's the first sentence of the second paragraph of this forwarded e-mail; do you see that?

A. The second -- the first sentence of the second paragraph that Kris Kobach sent to, I believe it is Secretary Ross, but I can't say his -- there is no e-mail address -- says "It is essential that one simple question be added to the upcoming 2020 census."

Q. All right. When you spoke with Kris Kobach, didn't he talk to you about adding a citizenship question to the census?

A. Again, I have no recollection ever speaking to him.

Q. Who did you understand Kris Kobach to be at the time?

A. I had no idea.

Q. Do you typically set up meetings with the Secretary or calls with the Secretary to people -- with people you have no idea who they are?

A. You asked me, sir, if at the time if I knew who Kris Kobach was, and I said I didn't.

Q. Correct. I have asked you a different question now.

A. Okay. Could you please repeat it?

Q. My question is, would you typically set up a call for the Secretary with somebody who you didn't know anything about who they were?

A. Well, no.

Q. Why did you do so on this occasion?

A. Here it looks as though he forwarded to me and told me who he was.

Q. Okay. And why did you set up a call with him with the Secretary?

A. At this point in time, I don't remember.

Q. It had to do with the citizenship question, didn't it?

A. He had sent an e-mail requesting a call, and I don't remember, well, it looks like I set it up, so, you

know --

Q. Ms. Teramoto, my question is simply, the call that you set up, that was for the purpose of discussing the citizenship question, correct?

A. It was -- I would have set up the call because somebody had asked for a call with the Secretary.

Q. Didn't you set it up for the Secretary in part because it was about the citizenship question?

A. I would have set up the call because somebody had asked for the call with the Secretary. It wouldn't be specifically because of a certain question.

Q. You wouldn't set up a call for anyone who asks for a call with the Secretary, would you?

A. If there is somebody who wants to speak to the Secretary and it seems like it is something that he would want to talk about, then I would set it up.

Q. So I take it he would, in your mind, he would have wanted to talk about the citizenship question?

A. I would have set up the call if somebody like this would have asked for a call with the Secretary, so if another Secretary of State had asked for some call with the Secretary, I would have tried to facilitate that.

Q. Wouldn't you have told the Secretary what the topic of the call was?

MS. WELLS: I object to the form.

A. It depends.

Q. Wouldn't you have told him what the topic of this call was?

MS. WELLS: I object to the form.

A. Somebody would have told him what the topic was.

Q. In this time period, July 2017, and earlier, hadn't you heard talk like this before that it is essential that the citizenship question be added to the census?

A. I don't remember anything specific.

Again, sir, I was not involved

in the day-to-day workings of the census. I think that's also demonstrated by the fact that I wasn't -- I don't remember ever being on this call, and it doesn't look like when I set it up, I had any intention of being on that call.

Q. In his e-mail to you, Kris Kobach also said that when he spoke to the Secretary, he did so at the direction of Steve Bannon.

Steve Bannon worked in the White House, correct?

A. Yes.

Q. Did you ever talk to Steve Bannon about the census?

A. Never.

Q. Did you ever set up a call for the Secretary and Steve Bannon about the census?

A. No.

Q. Would there be notes of the Secretary's conversation with Kris Kobach?

A. I have no idea, sir, because I wasn't part of that call.

Q. Were there -- but as his chief

of staff, was it typical that there would be notes of a call that people would have with the Secretary?

A. I don't take notes.

Q. Is there someone whose job it is, someone other than you, or an instruction that people should take notes?

A. No.

Q. How about to log the call, does the Secretary have a calendar in which his calls are logged, or some other document which logs his calls?

A. In general, sir?

Q. Yes.

A. Well, he does have a calendar.

Q. Do you keep his calendar?

A. No, sir.

Q. Who keeps his calendar?

A. There is a scheduler who keeps his calendar.

Q. Who is the scheduler?

A. For what time frame?

Q. This time frame, July 2017.

A. I don't remember.

Q. Who is it now?

A. A woman by the name of Morgan.
Q. What is her last name?
A. Brendan.
Q. For how long has she been the scheduler, roughly?
A. I'm guessing, I'm thinking, five months.
Q. Do you have access to the Secretary's calendar even if you don't keep it?
A. Sure.
Q. Do you keep a calendar?
A. Well, when you say access, I have never -- I never put anything into his calendar. I'm able to --
Q. View it?
A. View it, but I have never input.
Q. Understood.
Do you keep a calendar?
A. Yes, sir.
Q. And do you typically put calls on it when you are going to have a call?
A. It depends.
Q. Do you try and do it?

A. Well, I don't do it. Usually somebody would do it for me.
Q. Who does it for you?
A. Well, right now it would be Morgan.
Q. Who would have done it in July, roughly July, summer of 2017?
A. I don't know, sir, because we have had several different schedulers.
And also, sir, just so you're aware, there is a calendar, but then when the date changes, some things get removed and some things get added, I'm sure the same as your personal calendar.
Q. I understand. Let's have this marked Teramoto Exhibit 4.
(Teramoto Exhibit 4 marked for identification.)
A. And then after this one, sir, can we take a break?
Q. Certainly. Unless you want to take a break now. Up to you.
A. Let's take a break now.
Q. Certainly.
THE VIDEOGRAPHER: The time is

10:01 a.m. and this marks the end of media unit number one.

(Recess taken.)

THE VIDEOGRAPHER: The time is 10:10 a.m. and this begins media unit number two.

BY MR. GERSCH:

Q. Ms. Teramoto, you have in front of you what has been marked Teramoto Exhibit 4.

My first question, simple one, the top line of this memo, I'm sorry, this exhibit, indicates that it is an e-mail from Earl Comstock dated August 16, 2017 to you, CC'd to the Secretary; is that correct?

A. So that's not the original thread of the e-mail, right? The original e-mail looks as though it is August 11th from Earl to -- I still can't see how --

Q. My question was a little bit different.

A. Okay.

Q. My question was simply, the top part of the

exhibit, I'm sorry, the top part of the exhibit indicates that it is an e-mail from Earl Comstock to you dated August 16, 2017 and CC'd to the Secretary?

A. Yeah.

Q. And its subject is Memo on Census Question, correct?

A. Sure.

Q. And the e-mail immediately below that is from you to Mr. Comstock, CC'd to the Secretary, also on the subject Memo on the Census Question, correct?

A. From me to Earl, correct? It looks like I'm responding to --

Q. We will get to that.

A. -- an original e-mail.

Q. Who is Earl Comstock?

A. So Earl Comstock is the current director of policy at the Department of Commerce.

Q. And what do you understand his responsibility to be in that function? Actually, I withdraw that.

Was he in this position at that time, roughly?

A. I believe so.
Q. And what do you understand to be his role?
A. At this time or --
Q. Correct.
A. Well, he was the director of -- or he is the director of policy, so he works on various issues with the Secretary.
Q. All right. And then going to the last e-mail on this page, this is an e-mail from Mr. Comstock to the Secretary in which he says "Per your request, here is a draft memo on the citizenship question that James Uthmeier of the Office of General Counsel prepared and I reviewed. Once you have had a chance to review, we should discuss," and then it goes on, correct?
A. Would you like me to read it, sir?
Q. I'm just asking you if that's what's attached here at the bottom of the e-mail chain.
A. Well, let me read it, please.
(Witness perusing document.)

A. Okay.
Q. Did I read that correctly?
A. I mean, we can have him read it back. I don't remember exactly how you read the e-mail.
Q. Ms. Teramoto, the question was, isn't there an e-mail attached at the bottom of this chain that said certain words, and you asked to read it; did I read it correctly?
A. I just read the e-mail. I wasn't following -- I wasn't tracking your reading it.
Q. All right.
A. I assume you just read it.
Q. Ms. Teramoto, I'm going to ask you certain questions. I'm really only interested in the answers to my questions. If you need to read something to answer my question, I'm more than happy for you to read it.
A. Okay, thank you.
Q. But I do want, at the end of it, an answer to my question.
A. Okay.

Q. All right. You have read it. You see, I take it, that Mr. Comstock has written the Secretary that he is enclosing a draft memo on the citizenship question, and then that e-mail has found its way to you because you are on this chain, correct?

A. I believe so. Again, I know, sir, it's not your fault, but I find it just tricky to follow the e-mail chains, because, again, here we have an e-mail from Earl Comstock, and it's, you know, addressed to the Secretary, so I assume he e-mailed it to the Secretary. I just can't see it.

Q. All right. In any event, you respond to Mr. Comstock, CC to the Secretary, that "Peter Davidson and Karen Dunn Kelley will both be here Monday. Let's spend 15 minutes together and sort this out. W."

A. Sure.

Q. And this is on the memo on the citizenship question?

A. Sure.

Q. So it appears that you had some involvement with the citizenship question, correct?

A. If setting up a meeting -- it looks like I set up a meeting for them. I don't ever remember being at that meeting.

Q. All right, thank you for that.

But it does suggest -- am I reading it right when it suggests that you are going to participate in this meeting? "Let's spend 15 minutes together and sort this out."

MS. WELLS: Objection to form.

A. No.

Q. You don't read that as saying you would participate in the meeting?

MS. WELLS: I object to the form.

A. When I say "let's," it doesn't mean I always join the meetings. Let's have the group get together.

Q. All right. I'm sorry, finish your answer.

A. I don't remember -- I don't remember ever participating in this

meeting.

Q. If there was such a meeting, would you have typically put it on your calendar if you were participating?

A. If there was such a meeting? No, I mean, again, again, I did not participate in very many census meetings at all.

Q. Is it your testimony that you did not participate in this meeting?

A. My testimony is that I don't remember being in a meeting with Peter Davidson and Karen Dunn Kelley specifically talking about the census memo.

Q. Do you have an understanding as to why this is coming to you if you have no involvement with the citizenship question?

A. Sure. People CC me on things.

Q. Why are you the one setting up the meeting?

A. Probably because I said people should get together and discuss it.

Q. Why do they need you to do that? Why can't they do that without you?

A. I'm sure they can.

Q. You agree that someone would have had to forward Earl Comstock's original e-mail to the Secretary about this to you for you to be setting up the meeting?

A. Somebody would have had to forward -- I'm sorry, can you say that again?

Q. Yeah. For you to be setting up this meeting and for you to have a copy of Earl Comstock's e-mail to the Secretary about the citizenship question memo, someone would have had to forward you that e-mail?

A. Sir, that's the exact thing I was telling to you earlier, is that the way these are laid out, I know it is not your fault, it is just confusing. I don't know if it was forwarded or if I was CC'd on it.

And I can't tell, you know, who -- I mean, it says that it is what Earl Comstock wrote, but I don't see who he sent it to, so I share your frustration.

Q. You don't deny getting a copy of Earl Comstock's e-mail to Secretary

Ross, do you?

A. Again, from what I can see here, it looks as though I was either forwarded or CC'd it. I don't know. I'm guessing like you are, sir.

Q. My question was a little more specific.

You don't deny receiving a copy of Earl Comstock's e-mail at the bottom of that page --

MS. WELLS: I object to the form.

Q. -- saying that he has got a memo for the Secretary about the citizenship question?

MS. WELLS: Objection to form.

A. My best guess, sir, is that it was sent to my e-mail.

Q. Thank you.

Let's mark this as Teramoto Exhibit No. 5. It is a two-page document Bates stamped 1411 and 1412.

(Teramoto Exhibit 5 marked for identification.)

Q. All right. You have in front

of you what has been marked as Exhibit 5.

My first question is going to go to what is on the second page, that is the first e-mail in the thread, which says it is sent from Peter Davidson August 29, 2017, to Israel Hernandez, Earl Comstock, James Uthmeier, CC'd to you, and it says "The Secretary asked to set up a briefing on some of the legal questions he is concerned with." The subject is the Census. And it goes on.

Do you know why this was CC'd to you?

A. Sir, can I read the e-mail, please?

Q. Sure.

A. Thanks.

(Witness perusing document.)

A. Okay. Could you please repeat your question, sir?

Q. Do you know why this was CC'd to you?

A. Probably for situational awareness or seeing if when he had time on his calendar.

Q. All right. And then --
A. Because this is, again, I was only CC'd, this isn't even to me.
Q. Understood.
A. Okay.
Q. Then the scheduler, who at the time, who is Chelsey Neuhaus, she sends around an e-mail August 29, 2017, this is on the first page, that says "Would one of you be able to confirm that these are the only attendees that should be included in next Wednesday's census briefing."
Do you see that?
A. Yes, sir.
Q. The first name of the people to be included is you, right?
A. Yes, sir.
Q. You participated in this briefing; is that right?
A. Not that I'm aware of.
Q. Do you deny that you participated in this meeting?
A. I don't remember attending this meeting. And just so you understand, sir, they usually include me as an attendee for

every single meeting of the Secretary. Many of them I don't attend.

Q. Okay. I understand you saying that you don't recall.

My question is, as you sit here today, do you deny attending this meeting?

A. As I sit here today, I don't remember going to this and I highly doubt that I went to it. Again, I was not involved in the day-to-day interactions on the census.

Q. And you didn't provide any information to the Secretary to assist him in arriving at his decision to add a citizenship question to the census?

MS. WELLS: I object to the form. Asked and answered.

A. Again, you know, relating to census, there is an entire Census Bureau, so I would have facilitated a meeting, but I clearly would not be the one to -- I'm not the appropriate person to provide information for him on these types of things.

Q. My question was a little

different.

A. Okay.

Q. Is it correct that you did not provide any information to the Secretary to assist him in arriving at his decision to add a citizenship question to the census?

MS. WELLS: Asked and answered.

Q. I don't believe you've answered the question.

A. Sorry.

Q. Excuse me, let the record reflect we have been waiting for a minute for the answer.

A. Sorry, I thought she said -- I thought I already answered it.

Q. She can make any objections she wants. They are for the record. Unless she instructs you not to answer and you elect to follow her advice, you need to answer the question.

A. Sorry. I apologize. I thought -- I wasn't -- I didn't know you were waiting for me.

Again -- can you repeat the question?

Q. Sure. Did you provide any information to Secretary Ross to assist him in arriving at his decision to add the citizenship question?

MS. WELLS: I will say asked and answered again.

A. Okay, thank you.

I certainly did not create any information to give to the Secretary relating to the citizenship question.

Q. Let's have this marked as Teramoto Exhibit 6.

(Teramoto Exhibit 6 marked for identification.)

Q. For the record, this is Teramoto Exhibit 6, Bates stamped 2519 and 2520. At the top, it is an e-mail from Earl Comstock to Wilbur Ross, CC'd Wendy Teramoto, "Re: IT Request."

And I will add for the record there are seven lines of substantive text in this e-mail.

Ms. Teramoto, the subject line is "Re: IT Request" and then something is blanked out. What is IT request? Does

that have a meaning to you?

MS. WELLS: I object to the form.

Q. ITA. It says ITA. I said IT. I was wrong.

A. ITA is a department within Commerce.

Q. What does ITA stand for?

A. International Trade.

Q. The second e-mail in the chain, the second from the top is from the Secretary, August 31, 11:12 p.m., it says "I have received no update nor has there been an update nor the issue of the census question."

Did you understand that during various times during 2017 Secretary Ross would say something to the effect that he didn't know where the issue of the citizenship question was or the census question and wanted an update?

MS. WELLS: I object to form.

A. Was I aware of it?

Q. Yes.

A. I mean, here, if I had read the

e-mail, I would have been aware that he was asking about it.

Q. Would you read e-mails from the Secretary?

A. It depends.

Q. Are there e-mails from the Secretary that you choose not to read?

A. Sure, or that I skim.

Q. At the top, Mr. Comstock says "Understood. Wendy and I are working on it." Then he says "On census, I have a meeting tomorrow with Ellen and Karen where they are supposed to have definitive numbers. I will send you a report on the meeting and the numbers," and he goes on.

When he says "Wendy and I are working on it," do you know what that means?

A. I assume it is some ITA request.

Q. Did you learn that, through the course of 2017, either directly from the Secretary or from other people who worked at Commerce, that the Secretary was very interested in adding a census question --

I'm sorry, a citizenship question to the census?

MS. WELLS: I object to form.

A. Did I learn throughout 2017?

Q. During 2017.

A. It is hard for me to say very interested. It clearly was a topic that had come up.

Q. Did you learn that it was a matter of importance for him?

A. I don't know how to engage matter of importance. There is a lot of things that are important to him.

The budget on census, I remember that being extremely important to him. I remember --

Q. Wasn't the -- I'm sorry, go ahead.

A. -- spending time trying to figure out how we are going to ramp up the employment for census. I remember those.

Q. Wasn't the citizenship question important to Secretary Ross?

MS. WELLS: I object to the form.

A. Again, I can't answer, sir, what is or is not important to the Secretary.

Q. Who could?

A. The Secretary.

(Teramoto Exhibit 7 marked for identification.)

Q. Ms. Teramoto, I have handed you what has been marked Teramoto Exhibit 7, which at the top is a memo -- an e-mail, sorry, from Earl Comstock dated September 16, 2017 to you. Do you see that?

A. Yes, sir. Would you like me to read it?

Q. In a moment.

Earl's memo to you says "Morning Wendy: Here is the memo I gave SWLR regarding my discussions with DOJ. Earl."

I take it SWLR will refer to the Secretary, Secretary Wilbur L. Ross?

A. Yes, sir.

Q. And then below that is the memo or e-mail that he sent to the Secretary which is dated September 8, 2017 from Earl

Comstock to Secretary Wilbur Ross, Census Discussions with DOJ.

And let me ask you to read that e-mail there.

A. Sure.

Q. And then I will ask you questions about it.

A. Okay.

(Witness perusing document.)

Q. Who is Eric Branstad?

A. Just a minute, sir.

(Witness perusing document.)

A. I'm sorry?

Q. Who is Eric Branstad?

A. Eric Branstad used to be the -- I forgot his exact title. He was -- I don't know if he was Senior White House -- I think he was the White House liaison, or the White House advisor, I'm not sure, for Commerce.

Q. Did he have a role with respect to the citizenship question?

A. Not that I'm aware of.

Q. Mr. Comstock -- withdrawn.

You understood that

Mr. Comstock forwarded this e-mail to you on a Saturday because he wanted you to have background on what was going on with the citizenship question, correct?

MS. WELLS: I object to form.

A. I have no idea why he sent it, but he did forward me his memo to the Secretary.

Q. Did you discuss -- did you have discussions with Mr. Comstock about the citizenship question in connection with this e-mail or for any reason on or about September 16th, 2017?

A. I don't believe so.

Q. And when I say on or about, I mean the day before, the day after. You don't believe you had any discussions with him?

A. I don't believe I actually read the memo.

Q. Why do you think that?

A. Because I wasn't involved with the census.

Q. You had no involvement as far as you could tell?

A. Very limited involvement.
Q. Didn't you have involvement on the citizenship question on or about September 16, 2017, and isn't that why he is sending you this e-mail?
MS. WELLS: I object to the form.
A. No. Again, as I've said, I'm copied or sent things for my situational awareness. I don't know if receiving an e-mail constitutes being involved.
Q. And you did nothing with respect to the citizenship question in this time frame?
MS. WELLS: Objection, form, asked and answered.
A. I don't remember receiving this e-mail. I don't remember reading this e-mail. And I certainly don't recall ever having a discussion specifically on this e-mail train with Earl Comstock around September.
Q. You didn't ask Mr. Comstock what's the latest on the citizenship question, what's DOJ doing on the

citizenship question, anything like that?

MS. WELLS: I object to form.

A. Not that I remember.

Again, I'm CC'd on a lot of things. Just because I received the e-mail does not mean that, A, I read it, and B, I then get involved in it. There is too much stuff going on at Commerce.

Q. Let's have this marked as Teramoto Exhibit 8.

(Teramoto Exhibit 8 marked for identification.)

Q. You know, before I ask you to look at that document, how did you prepare for this deposition?

A. I met with the lawyers, who I guess would have gave me the outlines of how the depositions work in terms of, you know, make sure I'm truthful, answer the questions that you've asked.

Q. Were you shown any documents?

A. Sure.

Q. Were you shown any of the documents that have been marked as exhibits in this case?

MS. WELLS: I'm going to object to the question and direct the witness not to answer.

MR. GERSCH: What basis?

MS. WELLS: It is attorney-client work product.

Q. Did any of the documents that you were shown refresh your recollection?

MS. WELLS: I object to the form.

Q. Were they shown to you for the purpose of refreshing your recollection?

MS. WELLS: I'm going to object to the form, and I'm also going to object on the basis of privilege and attorney-client and work product, and direct you not to answer.

Q. Didn't you understand that that's why they were showing you the documents, to refresh your recollection?

MS. WELLS: Same objections and same direction to the witness.

Q. Are you refusing to answer these questions based on the instruction of counsel? You've got to answer that one.

A. Am I --
Q. Are you refusing to answer my questions about the documents you reviewed based on the advice or instructions of your counsel? You will want to answer that yes.
A. Yes, sir. Thank you for the help.
Q. All right. Let's turn to Teramoto Exhibit No. 8.
A. Okay.
Q. All right. This is an e-mail thread with five lines of substantive text.
Fair to say this is an introduction from John Gore, he is introducing himself and asking if you have time for a call, and you say yes?
(Witness perusing document.)
A. I'm sorry, sir, I don't know if that's a question.
Q. Yes. Did I summarize that fairly, John Gore writes you an e-mail introducing himself, he wants to speak with you and set up a call with you, and you say yes?
A. Yes, sir.

Q. Is this the first time you spoke to someone from the Department of Justice?

MS. WELLS: I object to the form.

A. I don't know. The only other person that I would have -- when is this -- September -- the Cabinet Affairs Director generally holds a chief of staff meeting either every other week or weekly, so I may have met somebody who works at Department of Justice at that meeting, but -- should I wait for you?

Q. No.

A. I may have met somebody from the Justice Department, but it would have been -- the only time I can think of would have been at the chief of staff meeting, but I don't remember a name.

Q. This call that you had -- withdrawn.

You did have a call with Mr. Gore, didn't you?

MS. WELLS: I object to the form.

A. I believe so, but I don't remember.

Q. And the call was about the citizenship question, wasn't it?

MS. WELLS: I object to form.

A. I don't remember.

Q. Let's have this marked as Exhibit 9.

(Teramoto Exhibit 9 marked for identification.)

Q. For the record, Exhibit 9 is a two-page exhibit Bates stamped 2651 and 52, the top of which is headed with an e-mail from Danielle Cutrona to Wendy Teramoto, "Re: Call."

A. Would you like me to read it, sir?

Q. Let me ask you a question and then you can read whatever you need to to answer it.

Ms. Teramoto, you will see at the beginning of this e-mail, at the bottom of 2652, is Mr. Gore's e-mail introducing you, and then at the very bottom -- and there is an e-mail thread.

At the very bottom of 2651, he says to you "By this e-mail, I introduce you to Danielle Cutrona from DOJ. Danielle is the person to connect with about the issue we discussed earlier this afternoon."

Take a look at the e-mail. The question I have for you is, I take it you spoke with Acting Assistant Attorney General Gore?

MS. WELLS: I'm going to object to the form.

(Witness perusing document.)

A. Okay. I'm sorry, sir, what was your question?

Q. My question was, I take it you spoke to Assistant Attorney General Gore?

MS. WELLS: Objection to form.

A. I don't remember speaking to him.

The e-mail that he sent to me said Danielle is the person to connect with about the issue we discussed earlier this afternoon. So I have no reason to believe that I did not talk to him, but I don't remember speaking to him.

Q. Understood. And the issue that you spoke with Assistant Attorney General Gore about, that was about the citizenship issue; is that correct?

MS. WELLS: I object to the form.

A. Again, I don't remember -- I don't remember speaking to John Gore.

Q. Higher up on the page, September 17, 2017 at 12:10, Ms. Cutrona e-mails you that "the Attorney General is available on his cell," and then she goes on to say "the AG is eager to assist."

Wasn't that in connection with the citizenship question?

MS. WELLS: I object to the form, lack of foundation.

A. I mean, I didn't -- I didn't write the e-mail. You would have to ask Danielle Cutrona.

Q. You were the recipient of the e-mail; is that correct?

A. Well, it says to me. Again, I can't see how these e-mails are sent to, but I have no reason to believe I didn't

receive this e-mail.

Q. It says "Wendy," comma, at the beginning of the e-mail, right? You are the recipient?

A. Again, I agree with you, I'm a Wendy. It is just frustrating that you can't see who is actually -- these are addressed to. I have no reason to believe I didn't receive this.

Q. All right. And in this period of time, September 18th, 2017, you would have been chief of staff for the Secretary of Commerce, right?

A. Yes.

Q. And you knew that the AG was eager to assist with respect to the citizenship question, didn't you?

MS. WELLS: I object to form, mischaracterizes her testimony.

A. You would have to ask Danielle Cutrona, because she is the one who wrote this e-mail.

Q. Didn't you learn that the Secretary -- I'm sorry, didn't you learn that the Attorney General of the United

States wanted to assist with respect to the citizenship question?

MS. WELLS: I object to the form, asked and answered.

A. Again, I didn't write the e-mail. I'm reading the exact same e-mail that you are.

Q. My question has nothing to do with the e-mail now.

Didn't you learn that the Attorney General of the United States wanted to assist Secretary Ross with respect to adding a citizenship question?

MS. WELLS: I object to form.

A. Sir, I'm reading the same e-mail that you are. I don't see in here that it says the citizenship question. It says "the AG is eager to assist." I have no idea what else the Secretary and the AG may or may not have been working on.

Q. Ms. Teramoto, for the third time, my question is not about the e-mail.

My question is, you came to learn, did you not, that the Attorney General of the United States was interested

in assisting Secretary Ross, was prepared to assist Secretary Ross with getting a citizenship question added to the census, can you answer that question?

MS. WELLS: I object to the form.

A. I'm not trying to be difficult. You keep asking me a question, and the only way I would have known what the AG was or was not eager to do on anything is reading the e-mail.

I don't -- I don't know the AG. So other than reading this e-mail, which you don't want me to refer to, this is the only sort of foundation I have.

Q. You have never spoken to the Attorney General of the United States, correct?

MS. WELLS: I object to form.

A. I believe I met him once at a chief of staff meeting.

Q. Well, you said earlier that you didn't know the Attorney General.

Have you spoken -- at the chief of staff meeting, did you speak to him

about the census question?

A. No.

Q. Didn't you speak to --

A. And actually I don't even remember, he presented to the chief of staffs, I don't even -- I would have probably shaken his hand, but I don't remember.

Q. Was this one of the documents you were shown in preparation?

MS. WELLS: I object to the form. I mean, I object to the question on the basis of privilege and I direct the witness not to answer.

Q. Are you refusing to answer based on the instruction of counsel?

A. Yes, sir.

Q. All right. Whether you remember speaking with the Attorney General of the United States or not, you knew that he was working with the Secretary of Commerce on adding a citizenship question to the census, didn't you?

MS. WELLS: I object to form.

A. I'm not sure how to answer

that.
Q. Yes or no.
A. Did I know -- I would say --
Q. One or the other.
A. Could you please -- could you please repeat the question?
Q. Sure. Whether or not you recall speaking to the Attorney General, you knew that the Attorney General of the United States and Secretary Ross were working together to add a citizenship question to the census, didn't you?
MS. WELLS: I object to form.
A. I was not part of discussions between the Attorney General and Secretary Ross.
Q. Do you have that understanding from any source?
MS. WELLS: I object to the form.
Q. You've got to answer that.
A. Do I have -- could you repeat it, please?
Q. Yeah. I have been asking you didn't you know that Secretary Ross and the

Attorney General were working together to add a citizenship question to the census, and I understood you to say that you don't remember being in discussions with them.

A. Right.

Q. And so my question is, did you learn this from any source, whether you were in discussions with them or not?

A. I don't remember any specific discussions from others.

Q. All right. At the top of this e-mail you say, in response to Ms. Cutrona, you say "They connected. Thanks for the help. Wendy."

I take it you are saying the Attorney General and the Secretary spoke with each other?

MS. WELLS: I object to form.

A. Yes, sir.

Q. And that e-mail is September 18th, 2017. Let's mark this as Teramoto Exhibit 10.

(Teramoto Exhibit 10 marked for identification.)

Q. For the record, this is an

exhibit Bates stamped 2528. It is a single page and it is an e-mail from Wilbur Ross to Peter Davidson, "Subject: Census."

It contains a single line of text which reads as follows: "Wendy and I spoke with the AG yesterday. Please follow up so we can resolve this issue today. WLR."

Didn't you and Secretary Ross speak to the Attorney General on September 18th, 2017?

MS. WELLS: I object to form.

A. I don't remember being a part of that call at all.

Q. Do you deny being part of the call?

A. I said I don't remember being a part of that call. I remember calls with different cabinet members. I don't ever remember being on a call with the AG.

Q. Can you think of any reason why Mr. Ross would get this wrong just a day after the call?

MS. WELLS: I object to form.

A. You would have to ask him, but

I don't remember being on the call with the AG.

Q. Do you have any reason to believe Mr. Ross would make up the fact that you were on the call with him and the Attorney General on or about September 18th, 2017?

MS. WELLS: I object to form.

A. You would have to ask him. Again, I don't remember being on the call with the AG.

Q. "Him" being Secretary Ross?

MS. WELLS: I object to the form.

A. I don't remember being on a call with the AG.

Q. You said you will have to ask him. By "him," you meant Secretary Ross, correct?

A. Yes, sir.

Q. Okay. Regardless of whether you remember being on the call, isn't it true that this call had to do with adding a citizenship question to the census?

MS. WELLS: Objection to the

form. Asked and answered.

A. Sir, I don't remember being on the call, so I can't tell you what was discussed.

Q. Let's go back to Exhibit, I think 9. This one. Let's go back to Exhibit 9.

A. Okay.

Q. Going back to the e-mail from Ms. Cutrona, toward the top of the page, September 17, 2017 at 12:10, Ms. Cutrona says, again, this is in the e-mail to you, the one that begins "Wendy, from what John told me, it sounds like we can do whatever you all need us to do."

So John, I take it, must be John Gore, because he is the one who introduces Ms. Cutrona to you, and this is following up on a call that Mr. Gore had with you.

So when Ms. Cutrona says "It sounds to me like we can do whatever you all need us to do," what did you need for the Department of Justice to do?

MS. WELLS: I object to form.

A. Again, I wasn't -- I'm not John and I'm not Danielle, so I don't -- I don't know what their conversation was.

Q. Well, I'm asking about a conversation that you had with Mr. Gore. Presumably she is referencing that conversation.

Didn't you have a discussion with Mr. Gore about what you at Commerce needed them at DOJ to do?

MS. WELLS: I object to form.

Q. Wasn't that the purpose of the call with Mr. Gore?

MS. WELLS: I object to the form.

A. I think what I testified earlier is I don't remember talking to John Gore, and I still don't remember talking to John Gore.

Q. Let's have this marked Teramoto Exhibit 11.

(Teramoto Exhibit 11 marked for identification.)

Q. All right. For the record, this is a three-page exhibit. It is 2636

through 2638. It includes much of the e-mail chain between Mr. Gore, Ms. Teramoto, and Ms. Cutrona that we have seen before.

My question is going to have to do with the e-mail at the very top of this chain in which someone who the government tells me is you e-mails Mr. Gore and says "Hi. AG and Sec spoke. Please let me know when you have a minute."

You understand that you are the sender of this e-mail, correct?

A. I mean, I can't see the address either.

Q. The government has represented that you are the sender.

A. Okay. Then okay.

Q. Do you accept their representation?

A. Sure.

Q. So when you write "Hi. AG and Sec" -- first of all, Sec means Secretary Ross, right?

A. Sure.

Q. So "the Attorney General and

Secretary spoke. Please let me know when you have a minute."

So certainly you know that the Attorney General Sessions and Secretary Ross had a conversation because you are reporting that, correct?

MS. WELLS: I object to the form. But go ahead.

A. My e-mail said the AG and Secretary spoke, so I must have known that they spoke.

Q. And then you say "Please let me know when you have a minute."

Did you call -- didn't you call Assistant Attorney General John Gore?

A. Again, to this day, again, I don't ever remember speaking to him on the phone.

Q. All right. But certainly as the author of this e-mail, you would read this that way, that, in other words, you would read this e-mail as saying you want a call with Assistant Attorney General Gore?

MS. WELLS: Objection to form.

A. Again, this is, you know, an

e-mail from a year ago that I'm reading to you that I must have written saying "Hi. AG and Sec spoke. Please let me know when you have a minute."

Q. Right. My question to you is, don't you understand that to be a request for Mr. Gore to speak with you further or request by you saying you would like to speak with him further?

MS. WELLS: I object to form.

A. When I read this, it would be, you know, let me know when you have a minute.

Q. So that you can speak with him, right?

MS. WELLS: I object to form.

A. Sure.

Q. And what did you speak with him about?

A. Again, I don't ever remember speaking to John Gore.

Q. You get that adding the citizenship question to the census is an important matter, don't you, Ms. Teramoto?

MS. WELLS: I object to the

form of the question.
A. I'm not sure, when you say important, are you asking me?
Q. Yeah.
A. If I -- look, I mean, I can understand why there is a discussion about it.
Q. Do you agree that it is an important matter?
A. Sure.
Q. It's not a surprise to you that there are all these lawsuits around the country about adding a citizenship question to the census, is it?
MS. WELLS: I object to form.
A. I'm always surprised actually how many lawsuits there are about everything in this country.
Q. You're not surprised that it is a matter of controversy, of national controversy, the Secretary deciding to add a citizenship question to the census?
MS. WELLS: I object to form.
Q. Are you?
MS. WELLS: I object to the

form.

A. I am not surprised that there is this amount of litigation, because there is a lot of litigation in this country.

Q. All right. Being that the citizenship question is, certainly, even according to you, a matter of importance, is there a reason you don't remember being involved in calls with Secretary Ross, the Attorney General, Assistant Attorney General Gore, Ms. Cutrona of the Department of Justice, is there a reason you don't recall being involved in these calls about adding the citizenship question to the census?

A. Sure.

MS. WELLS: I object to form. Go ahead.

Q. What's the reason?

A. I guess, you know, do you have an understanding of what Commerce does and how big Commerce is and all the issues that Commerce deals with? I think if one does, one would understand that there are a lot of things that are important that Commerce

does.

This is just one, you know, census is very important, but it is just one department, one area, that, again, I was not involved in because of the scientific and technical nature of it, I'm not the best person to be involved in the day-to-day workings on census.

Q. Since you're not the best person to be involved, why are you involved? Why is it that Secretary Ross thinks you are in a phone conversation between him and the Assistant -- I'm sorry, between him and the Attorney General of the United States, why are you talking to Assistant -- Acting Assistant Attorney General Gore, why are you talking to Danielle Cutrona, and why are you talking to them about the census and the citizenship question?

MS. WELLS: I object to form.

A. Can you please read them back one at a time so I can answer them?

Q. I will withdraw the question.

You say you weren't the best

person to be involved with census issues.

A. And I'm still not.

Q. I hear you on that, which is why I'm asking, so if you're not the best person to be involved, why is it that the documents make it seem like you were involved in speaking to the Assistant Attorney General of the United States about this, the Acting Assistant Attorney General, and the Attorney General of the United States?

MS. WELLS: I object to form.

A. You are asking me. I think you have to ask John Gore why he reached out to me. I can't answer why John Gore reached out to Wendy Teramoto.

Q. Was someone in the Department of Commerce the Secretary's point person on the citizenship question in this period?

A. I wouldn't characterize it like that. There was Karen Dunn Kelley, where census falls under her group, so she would have been the point for the census issues.

Q. Do you have an understanding as to why these calls don't go to Karen Dunn

Kelley?

A. My best guess is I don't know when -- Karen didn't come into the Administration until later.

Q. All right. So she wouldn't have been the point for this at this point in time?

A. Again, I don't know when she came in. I can look. It looks like you have another e-mail with her on this.

So here on Exhibit Teramoto 5, it is Bates number 0001411, there is an e-mail from Karen Dunn Kelley on August 29th. So at that point she would have been part of it. You know, how long she had been there and if people knew that she was there in the other departments, probably not.

Q. All right. If she is not the point person at this point in time, who is?

A. At Commerce?

Q. Yes.

A. Earl, Earl Comstock.

Q. Anyone besides Earl?

A. I mean, the main people, you

know, who I always think about when we talk about census is either Karen or Earl.

Q. Let's go back to Teramoto Exhibit 1. I think you have in front of you.

A. Then you have Peter Davidson, too, sir.

Q. Peter Davidson is general counsel for Commerce?

A. Yes, sir.

Q. Are you saying he was a point person?

A. You said was involved, I believe. So I don't know if there was exactly one person. There was, you know, those are the people who I would say were most likely involved.

Q. Let's go back to Teramoto Exhibit 1.

A. Sure.

Q. You can put the other document aside.

You testified earlier this morning that you had never seen this before.

A. That's correct.
Q. You are the chief of staff. Do you have an understanding why you wouldn't have seen this document?
A. There is plenty of documents I don't see. The volume of documents that are created at Commerce is mind-boggling.
Q. This is an important document, isn't it?
MS. WELLS: I object to the form.
A. There is lots of important documents.
Q. You recall -- withdrawn.
You know that after Secretary Ross issued this supplemental memorandum dated June 21, 2018 that members of Congress wrote him a letter saying that he had misled them in sworn testimony about the citizenship question, you knew that, right?
MS. WELLS: I object to form.
A. I mean, I'm taking your word for it.
Q. I'm asking you whether you know

it. You are the chief of staff. You certainly know that, right?

MS. WELLS: I object to the form.

A. I remember there being some discussion. I don't ever remember reading any of the correspondence.

Q. You remember that members of Congress having received this June 21, 2018 memorandum from Secretary Ross, you remember that they accused Secretary Ross of having given them misleading testimony; is that right?

MS. WELLS: I object to the form.

A. Again, I've heard that, but I haven't actually read if there has been correspondence. I have not read any direct correspondence.

Q. I'm curious, you are the chief of staff. If members of Congress, and this is multiple members of Congress, accuse the Secretary of not being candid with them in sworn testimony, that's not something you want to read?

MS. WELLS: I object to the form.

Q. You don't say to somebody, get me that letter from Congress?

MS. WELLS: I object to the form. Go ahead.

A. There are many important letters and correspondence throughout all of the different departments in Commerce. I'm not physically able to read every single one, I'm just not, sir.

Q. I believe that. But when you hear that members of Congress have written a letter accusing the Secretary of not being candid with them, you don't say to somebody I would like to see a copy of that letter?

A. No.

Q. Have I got that right? No?

MS. WELLS: I object to the form. Asked and answered.

A. That's correct.

Q. It doesn't appear to be showing up on the transcript. I heard you to say no. Did I hear that right?

MS. WELLS: I object to the form, and it also mischaracterizes the testimony, I believe.

Q. I'm characterizing the transcript, which I'm looking at.

A. I have not specifically asked for this letter that you're talking about.

Q. I take it you haven't asked for it generally either?

A. I don't know what you mean, generally.

Q. You said specifically. I don't know if you are meaning to exclude something.

A. I'm not a lawyer, so all I'm saying is I have not asked for it.

Q. Okay. I know you haven't seen this before today, but I want to point you to something just so we can have a framework.

Sort of almost halfway down the first paragraph of Teramoto Exhibit 1, Secretary Ross says that with respect to the fundamental issues regarding the census, he says "Part of these

considerations included whether to reinstate a citizenship question which other senior Administration officials had previously raised."

Do you know who the other senior Administration officials are?

A. I have no idea.

Q. Who would know?

A. You would have to ask Secretary Ross.

Q. I will represent to you that the Commerce Department, through its lawyers at the Department of Justice, said they can't figure out the answer to this question.

Do you have reason to believe that the identity of the senior Administration officials is some kind of state secret?

MS. WELLS: I object to the form of the question.

A. Are you being serious?

Q. Yeah. I'm, frankly, shocked that the Commerce Department and the United States Justice Department can't figure out

who these senior Administration officials are.

So I'm asking you, is this some kind of state secret?

MS. WELLS: I object to the form of the question and also --

Q. Is it any kind of secret? You can withdraw "state."

MS. WELLS: -- the characterization of what the government has said in connection with the request for the information that you have presented in your interrogatory.

But you can answer the question, if you remember it.

THE WITNESS: I don't. Can you please read it back?

Q. I will rephrase it.

A. Okay.

Q. Can you think of any reason why the identity of the senior Administration officials who had raised the citizenship question to whom Mr. Ross refers, can you think of any reason why this is secret or why we can't know the answer to who those

people are?

MS. WELLS: I object to form.

A. I have no idea.

Q. I take it you have not heard any discussion of that issue?

A. Of the issue of the senior Administration officials?

Q. Yeah.

A. Right, I have not.

Q. You have not been -- you have not been asked to find out the answer to that question?

A. I have not been a part of it at all. You are the first person who has raised it with me.

Q. Still on Teramoto Exhibit No. 1, when Secretary Ross says that soon after his appointment as Secretary of Commerce, he starts to have considerations into whether to reinstate a citizenship question, have you seen any documents about that of any kind, e-mails, scraps of paper, memoranda?

A. Where are you, sir?

Q. So second sentence is "Soon

after my appointment as Secretary of Commerce, I began considering various fundamental issues regarding the upcoming 2020 census, including funding and content."

Then he says, the next sentence says "Part of these considerations included whether to reinstate a citizenship question which other senior Administration officials had previously raised."

My question to you is, have you seen -- so he is talking about a period starting soon after his appointment as Secretary of Commerce.

So I'm asking, have you seen any documents, any memoranda, any e-mail, scraps of paper, what have you, about the Secretary's consideration of whether to reinstate a citizenship question? Have you seen any such documents?

A. Outside of what you provided me here?

Q. Correct.

A. No.

Q. Did you ever hear or be told

that with respect to whether to add a citizenship question, people should delete or destroy documents?

MS. WELLS: I object to the form.

Q. Did you ever hear that?

A. No.

Q. How about that they shouldn't write things down, did you ever hear anything like that?

A. No.

Q. Do you ever use a personal e-mail address to communicate on government business?

A. No.

Q. Do you have a personal e-mail?

A. Sure.

Q. How about a personal text messaging app, do you ever use a personal text messaging app to communicate on government business?

A. Not that I'm aware. I try and keep everything on my government phone, texting and e-mails.

Q. Yeah, actually, that raised a

great question.

When you started at the Commerce Department, did someone give you a briefing as to how you were supposed to communicate and the importance of saving those materials?

A. Did someone give me a briefing? I mean, I don't remember specifically, but in general, you know, all the sort of government work should be done on your government phone and devices.

Q. And retained, correct?

A. Sure. Well, my understanding is that, I mean, even in your personal e-mails, everything is retained somewhere for life.

Q. Were you given any briefing about the Federal Records Act and the record retention requirements of the Federal Records Act?

A. Not specifically, but, again, my understanding is that any e-mails that are sent using your government device is saved somewhere for eternity.

Q. Have you ever used a private

messaging app such as Signal, Confide or WhatsApp?

A. No.

Q. Do you know what those are?

A. I have heard of WhatsApp, but I don't know, what are the other ones?

Q. To your knowledge, does Secretary Ross --

A. I'm sorry, what were the other ones?

Q. Oh, I'm sorry, the other ones were Signal or Confide.

A. No.

Q. To your knowledge, does Secretary Ross use a personal e-mail to communicate for government business?

A. I know that he uses his government account.

Q. My question is, does he ever use a personal account?

A. I don't know. He has a personal account. You would have to ask him.

Q. And has Secretary Ross ever used text messaging on a personal -- on a

personal device or personal account to conduct government business?

A. For as long as I have known him, I have never received a text message from him.

Q. And, to your knowledge, does Secretary Ross use a private messaging app such as Signal, Confide, or WhatsApp?

A. I think he would be like me and not know how to use them.

Q. Did you participate in any briefings during the Trump Administration's transition phase?

MS. WELLS: I object to the form.

A. The only briefing that I can remember was -- I believe it was after the Secretary's hearing, he met with, I don't know if they call it the transition or the landing team. I don't know, they call it one of those things. And we met in a room with some of the people who were part of the transition team for Commerce.

So if that was considered a briefing, that's the only one that I would

have participated in.

Q. Was there any discussion of the census or citizenship question issues at that meeting?

A. Not that I remember.

Q. Did you have any discussions during the transition phase concerning the census or citizenship questions?

A. Census might have come up just in terms of it being, you know, one of the big departments that had a big budget, that once he was confirmed, needed to get your arms around, but I don't remember anything on the citizenship question.

Q. Before you became chief of staff, did you have a predecessor in that position?

A. Meaning was there a chief of staff before me?

Q. Exactly.

A. For Wilbur?

Q. Correct.

A. No, there wasn't.

Q. Did you have any discussions with the White House about the census and

the citizenship question?

A. When you say -- what do you mean, White House?

Q. White House personnel, people who work, you know, are on the White House staff, the President's staff, as opposed to Cabinet staff, for example, as opposed to Agency staff.

A. Not that I remember.

Q. Did you talk to Stephen Miller at all about census questions?

A. No.

Q. Did you talk to Stephen Miller ever?

A. Sure.

Q. What do you talk to him about?

MS. WELLS: I object to the form.

A. With Stephen Miller, I don't remember specifically, but it was more related to trade discussions.

Q. You never spoke to him about a citizenship question?

A. No.

Q. How about Andrew Bremberg?

A. No.
Q. No, you never spoke to him?
A. I mean, I know who he is. I might have said hi to him, but I don't think I have ever had a conversation more than hi.
Q. And certainly not about citizenship questions?
A. I don't think he knows who I am.
Q. And certainly you never spoke to him about citizenship questions?
A. No.
Q. How about John, I will probably pronounce this wrong, Zadrozny, Z-a-d-r-o-z-n-y?
A. I don't know who he is.
Q. So you never spoke to him?
A. No. Or unless I said hi to him in the hallways and I don't know who he was, but I don't know who that is.
Q. When you say in the hallways, do you mean at the White House, do you mean at the Census --
A. Yes. I have never been to the

Census Department or Bureau or building.

Q. I meant the Commerce. Okay. So how often are you at the White House?

A. It depends. Sometimes I'm there, you know, every day, sometimes it will be a week that I'm not there.

Q. Did you ever speak to Steve Bannon on any occasion?

MS. WELLS: Objection, asked and answered.

A. Yes.

Q. What about?

A. Hello.

Q. So your testimony, you have never had a substantive discussion with Mr. Bannon?

A. I mean, I've had idle chitchat on a plane with him, but that was about it.

Q. So no substantive discussion?

A. No.

Q. Certainly nothing about the census or citizenship?

A. No, no.

Q. Did you ever speak with -- have you ever spoken with President Trump?

A. Yes, I have spoken with him.
Q. What about?
A. Hi, nice to meet you, sir.
Q. Did you ever have a substantive discussion with President Trump?
A. I have been in the room when there have been substantive conversations, but I would not say I was -- well, I would say I was in the room, but I was not participating in the discussion.
Q. Were any of these -- did you ever -- were you ever present for a discussion including President Trump that concerned the census or citizenship questions?
A. No.
MR. GERSCH: Let's take a break now and then we'll come back.
THE VIDEOGRAPHER: The time is 11:30 a.m. and this marks the end of media unit number two.
(Recess taken.)
THE VIDEOGRAPHER: The time is 11:46 a.m. and this begins media unit number three.

BY MR. GERSCH:

Q. We are back on the record, Ms. Teramoto.

I want to return to a topic that I had asked you about earlier and make sure that to the extent I drew an objection from counsel, that I've framed this in various ways so as to see if we can avoid the objection.

When you prepared for this deposition, did you review documents?

A. Yes.

Q. And were any of the documents you reviewed the documents that are marked as exhibits today?

MS. WELLS: I object, and I'm going to direct the witness not to answer on the basis of attorney-client and attorney work product privilege.

MR. GERSCH: Counsel, I'm going to say that my understanding in the Southern District of New York is that the privilege doesn't cover the answer to that question.

I'm going to move on. I'm

going to provide you with a copy of a case, and at the next break let's see if we can resolve that issue.

MS. WELLS: Okay, thank you.

Q. I'm going to show you what I'm going to mark Teramoto Exhibit No. 12.

(Teramoto Exhibit 12 marked for identification.)

Q. For the record, Teramoto Exhibit No. 12 is the March 26th, 2018 decisional memo from Secretary Ross to Karen Dunn Kelley regarding reinstatement of the citizenship question on the 2020 decennial census questionnaire, beginning on page Bates stamp 1313 and ending on the page Bates stamped 1320.

The only question for you at this time I have is, have you seen this document before today?

A. No.

Q. Did you hear that at some point the Secretary had issued a decisional memorandum regarding the census -- regarding adding a citizenship question to the census?

A. Did I hear that he --
Q. -- had issued a decisional memorandum regarding adding a citizenship question to the census?
A. I don't know if that's the right verb. I knew that there -- I have heard that there was a decision memo.
Q. Okay. But you had not seen it in the ordinary course of your work?
A. No. Again, because I'm not involved in the details of census.
Q. And putting aside whether you had seen it, did you understand or come to understand that the decisional memorandum says the impetus for the question comes from the Department of Justice?
MS. WELLS: I'm going to object to the form of the question. You can answer.
A. I don't actually -- I don't understand the question.
Q. Sure. I will rephrase it.
A. Okay.
Q. Did you understand from any source that when Secretary Ross issued his

memorandum explaining his decision, the decisional memorandum, that he said he was adding a citizenship question because of a request from the Department of Justice?

MS. WELLS: I object to form.

A. That is my general knowledge. Now, if there is a technical thing, legal thing in there, you know, that's not -- I wouldn't be familiar, but that's my understanding.

Q. Didn't you understand that the reason the Department of Justice asked for the addition of the citizenship question is because Secretary Ross asked the Department of Justice to ask for the citizenship question?

MS. WELLS: I object to form.

A. I have no idea. I'm not involved with the Department of Justice, so I don't understand how their decisions are made.

Q. This is a question more about Secretary Ross.

A. Okay.

Q. Didn't you understand that the

reason that the Department of Justice asked the citizenship question is because Secretary Ross asked the Department of Justice to ask the citizenship question?

MS. WELLS: I object to form.

A. I'm sorry if I don't understand your question, but when you ask it to me, it makes it sound like you are asking me if I understand why the Justice Department did something, and, again, I have no idea how the Justice Department works, so I can't tell you why they do or do not do anything; I'm sorry, I just don't.

Q. Do you understand from any source that Secretary Ross went to the Department of Justice and asked them to ask for a citizenship question on the census?

A. Again, I don't know what direct conversations the Secretary has had with the Justice Department.

Q. You haven't heard about that from any source?

A. Heard about what?

Q. That Secretary Ross went to the Department of Justice and asked the

Department of Justice to please request the addition of a citizenship question.

A. I have no recollection of the Secretary ever going to the Department of Justice.

Q. Including you have no recollection of the Secretary talking to Assistant Attorney -- I'm sorry, to Attorney General Jeff Sessions about that?

A. No, that's not what I said.

Q. I know. That's a different question.

A. Okay. Can you ask your new question, please?

Q. Yes.

You understand that Attorney General Jeff Sessions spoke to Secretary Ross about asking a citizenship question on the census?

MS. WELLS: I object to the question, the form of the question.

A. From the e-mails, I can see that the Secretary and the AG spoke. What they spoke about, I don't know, because, as I said, I have no recollection of ever

being on a call between the two of them.
Q. Did you learn from any source that the Department of Commerce had made a decision in connection with the decisional memorandum not to let Congress and the public know that it was the Secretary who wanted the Department of Justice to add the citizenship question?
Withdrawn. Let me rephrase that.
A. Okay.
Q. Did you learn from any source that the Department of Commerce had made a decision in connection with the decisional memorandum not to let Congress and the public know that it was the Secretary who went to the Department of Justice, and it was the Secretary, the Secretary of Commerce, that is, who pressed the Department of Justice to ask for a citizenship question?
A. Sir, I'm not trying to be difficult. Can you shorten your questions, because there is a lot of nots and --
Q. Sure.

So the question is, did you learn from any source --

A. Okay, so did I learn from any source?

Q. Right, that the Commerce Department --

A. Okay.

Q. -- didn't want Congress or the public to know that the Secretary of Commerce --

(Telephonic interruption.)

Q. Let's take it -- for the record, we have had a little interruption. Let's just take it from the top.

A. Okay.

Q. So the first part was, did you learn from any source; you are with me on that, right?

A. Yes.

Q. And the second part was that the Commerce Department didn't want the Congress or the public to know that it was Secretary Ross who went to the Department of Justice and asked the Department of Justice to request the citizenship

question.

A. I have not heard from any source that the Commerce Department did not want Congress or the public to know.

Q. Have you heard of any discussion even touching that subject?

A. Not that -- not that I can remember. I mean, again, sir, I'm not involved in the detailed discussions on census. I'm not involved in the meetings.

Q. I take it Secretary Ross never said to you, in words or in substance, I'm not going to tell Congress that I was the one who went to the Department of Justice and asked for the citizenship question?

A. Secretary Ross has never said that to me.

Q. Do you remember any discussion with Secretary Ross about the citizenship question?

A. I don't remember having any direct conversations with him on it.

Q. Is it your best recollection that you had no such conversations, or are you saying there were, but you don't

recall?

A. I'm saying I don't remember having any direct conversations with the Secretary on the question.

Q. Do you believe that you had some?

A. Again, I don't remember having any direct conversations with him on the citizenship question.

Q. My question is a little different. I'm not asking for your memory now.

I'm asking for whether you think you had some, for example, I can think of lots of conversations that I have had with my spouse, with my children, on certain subjects, but I can't remember the conversations, I just know I had them.

So I'm asking in that context, do you believe you had conversations with --

A. I don't think we did.

Q. Let me just finish the question.

A. I'm sorry.

Q. I have your answer. Let me just finish the question.

Do you believe you had?

A. I don't believe I have.

Again, again, I'm not the census person, so if there is issues related to census, I'm not the first person or even the second or third, fourth, fifth person that I believe the Secretary would call.

Q. Let me follow up on the last question.

Does anyone at the Commerce Department, to your knowledge, have a longer relationship with the Secretary?

A. Not that I'm aware of.

Q. Do you believe you have a relationship of trust with the Secretary?

A. I would hope so.

Q. Do you believe anyone else has a better relationship of trust with the Secretary at Commerce, anyone at Commerce?

A. I mean, you would have to ask the Secretary who he trusts the most.

Q. You're not aware of anyone

else?

A. I can't speak for who the Secretary trusts or doesn't trust.

Q. Besides yourself, is there anyone else the Secretary uses as a close advisor on issues of importance?

MS. WELLS: I object to the form.

Q. I will withdraw the question.

Is there anyone the Secretary uses as a close advisor on questions of importance and sensitivity?

MS. WELLS: I object to the form.

A. Sure, yes.

Q. Who are those people?

A. Karen Dunn Kelley, Earl Comstock.

Q. Anyone else?

A. I mean, I would say those are the immediate ones. There is other people. I mean, if it is something related to patents, he would speak to Andre Iancu. There is the Under Secretary Gil Kaplan, Matt Borman.

Q. How about people outside of Commerce, is there anyone outside of Commerce that the Secretary likes to talk to about important issues?

MS. WELLS: I object to the form.

Q. For advice.

A. On anything?

Q. On matters relating to Commerce.

A. Well, sure. I mean, a lot of the -- I would say a wide majority of the Secretary's time is spent on the trade issues as well as the tariffs and the 232s on steel and aluminum.

Q. How about on census, are there people outside of the Commerce Department that the Secretary turns to for advice on either the citizenship question or on the census generally?

A. If he goes outside of Commerce, you know, other than, you know, he has spoken to Marc Neumann, but anybody else, I wouldn't know, unless there are other people at the transition that talked to him

about it, but I wasn't part of the transition team, so I wouldn't know.

Q. If someone -- why Marc Neumann? Let me come back to him.

A. Sure. I think as I stated before, Marc Neumann was part of the transition team who used to work at -- I think he worked at Census, so he was the one who would brief the Secretary just on census during the transition.

Q. In that summer of 2017 and going to September when we saw those e-mails between you and Assistant Attorney General Gore and the other e-mails on those chains, if someone had come to you then and said Ms. Teramoto, I need -- I have got an important issue that I want to talk to you about regarding adding a citizenship question, who would you have put them in touch with?

MS. WELLS: I object to the form.

A. Well, I mean, I think I did put them in touch with Izzy Hernandez.

Q. And what was his position?

A. He was the deputy chief of staff.

Q. Did he have any special, you know, was the census question, citizenship question on the census, was that something that he had particular responsibility for?

A. I mean, I don't know. He worked on the census.

Q. You said he was deputy chief of staff. I take it that meant he reported to you?

A. Sure.

Q. So when he worked on the census, was that because you assigned it to him?

A. I don't remember how that came about. I don't know if he said he wanted to work on it or if I said we need somebody to work on it. I'm not sure which one.

Q. Did you hire Mr. Hernandez or play a role in his hiring?

A. Yeah. I had met -- I had met Izzy during the transition and he had helped the Secretary through his confirmation process.

Q. What was his background?
A. Prior to Commerce, he was working in California, it was Facebook or Google or one of those companies, I don't remember which one, and then prior to that he had actually worked at Commerce during -- sorry, should I continue?
Q. Yes.
A. He had worked at Commerce during the Bush Administration, but I don't remember the exact role that he had.
Q. Did you ever have a discussion with Mr. Hernandez about the citizenship question?
A. No.
Q. Insofar as he worked on the census, did Mr. Hernandez report those issues to someone other than yourself?
MS. WELLS: I object to the form. Go ahead.
A. I don't know, and I actually don't remember him reporting anything to me.
Q. Right. My question is, to the extent that he was dealing on census

issues, did he go to someone else other than you?

And I ask that in the context of your saying you don't remember him coming to you, so my question is, would he go to somebody else, would he go directly, for example -- let's ask it this way:

Would he go directly to the Secretary on census issues?

A. He may have. Again, I don't know. I just don't know.

Q. Would you have some kind of regular meeting with the Secretary to go over important pending issues?

A. Me personally or the department?

Q. Let's start with you, and then we will move to the department.

A. I would not -- I don't have sort of a standing meeting time with him. If something sort of comes up, depending on its urgency, then I will just sort of insert myself into the calendar. But there is no standing time that I speak to him.

Q. How about some group of senior

staff people, is there a regular meeting with the Secretary that you participate in?

A. There used to be, we haven't had them in a while, we used to try and have meetings of the bureau heads with the Secretary to go through, and the departments, any sort of major issues that they would be grappling with.

Q. I guess I should restrict my question to Commerce, senior officials in Commerce, was there a regular meeting that the Secretary would have with senior Commerce officials?

A. Yeah, I'm sorry, that's what I was talking about. So the department heads, so there is NOAA, there is Census, there is Patent, there is BIS, there is a whole bunch of them, we haven't had them in a while, but we tried to install sort of a weekly meeting where the department heads would all come in and sort of give an update to the Secretary.

Q. Who would come for the Census? Would that be someone from the Census, or would it be Karen Dunn Kelley or someone

else?

A. I don't remember, to be honest.

Q. Did someone take notes of these meetings?

A. I mean, people may take their own individual notes. There was no assigned note-taker.

Q. Here is what I would like to get a feel for, if you could help me with this.

So in a lot of organizations, there would be somebody who would say, particularly in a business organization, okay, these are our priorities for the -- well, there might be long-term priorities, but then there would be short-term priorities like we need to get this accomplished in the next week, day, month.

Did someone keep track of -- did someone keep track of what the short-term priorities were?

A. Well, there is -- I mean, there is no sort of tracking system in the office of the Secretary of sort of this, you know, the immediate versus long-term goals, but

the department heads clearly have sort of the current issues that they are working on, and then, you know, things that they are always sort of working on.

So, you know, depending on what it is, and, you know, there is updates to the Secretary on what's happening in the departments.

Q. Was there someone who was supposed to give the Secretary updates about adding a citizenship question to the census?

MS. WELLS: I object to form.

A. I don't believe there has been an appointed person on that.

Q. Well, is there someone who does it, whether they are appointed or not?

A. Not that I'm aware of.

Q. I neglected to ask you one question about the documents you looked at in preparation for the deposition, and I will ask it slowly so your counsel can decide whether they are going to object or not.

Did any of the documents you

reviewed have Bates stamp numbers on them?

MS. WELLS: You can answer that.

A. I don't remember.

MR. GERSCH: It is 12:10. I may be done. In part, it depends on your review of the -- and, for the record, I'm speaking to counsel now -- counsel's review of the case that I provided them with, and I understand that other counsel probably have some questions, much fewer than my questions --

MS. WELLS: Is it possible to quantify how much time, I don't know if this is a discussion you want to have on the record, but the witness would prefer --

MR. GERSCH: Let's go off the record.

THE WITNESS: I don't need to have lunch. So I'm happy to keep going and --

THE VIDEOGRAPHER: The time is 12:11 p.m. and this marks the end of media unit number two.

(Luncheon recess: 12:11 p.m.)

A F T E R N O O N S E S S I O N
1:04 p.m.
W E N D Y T E R A M O T O, resumed.
THE VIDEOGRAPHER: The time is 1:04 p.m. and this begins media unit number four.
CONTINUED EXAMINATION
BY MR. GERSCH:
Q. All right, we are back on the record.
Counsel and we have had a discussion off the record about the scope of the work product and attorney-client privilege, and based on that conversation I'm going to ask some additional questions about the documents that the witness may have reviewed in preparation for this deposition.
Ms. Teramoto, I'm going to show you -- I show you again a copy of Teramoto Exhibit 2.
Did you review that document in preparation for this deposition?
A. I don't know if it was this exact one, but a version of it looks

familiar.

Q. And did you see a version of it with some of the -- some or all of the black redaction marks?

A. No.

Q. You can put that aside. I show you Teramoto Exhibit 3 again.

Did you review that document in preparation for this deposition?

A. I don't remember. I don't remember.

Q. I will show you what has been marked Teramoto Exhibit 4.

Did you review that document in preparation for this deposition?

A. I don't think so.

Q. I show you what has been marked Teramoto Exhibit 5.

Did you review that document in preparation for this deposition?

A. I do not believe so.

Q. Roughly how many documents did you review in all?

A. Ten or under.

Q. I show you what has been marked

as Teramoto Exhibit 6.

Did you review that document in preparation for your deposition?

A. I don't think so.

Q. I show you what has been marked Teramoto Exhibit 7.

Did you review that document in preparation for your deposition?

A. Some version of this.

Q. Did you see a version that didn't contain -- did you see a version that didn't contain some or all of the redaction marks?

A. No.

Q. I will show you what has been marked Teramoto Exhibit 8.

Did you see that document in preparation for your deposition?

A. Some -- actually, well, when I say some version, again, the way that these e-mails are, I might have seen something that had a subset of it, but I don't know if it's the whole e-mail chain.

Q. These are the documents that --

A. Yeah.

Q. Go ahead.
A. Again, I don't know if it was this exact document production, but it could have been a version, I don't know how they are generated, so do you get this as one document production and the next e-mail is another one, and the next one --
Q. I get whatever counsel gives me.
A. Okay, all right. So that's my best thing, is some version of it, but I don't know if it was this exact one.
Q. And the document you have been talking about, Teramoto Exhibit 8, that is one of these documents that has the --
A. It is an e-mail chain.
Q. -- e-mail chain with you and Assistant Attorney General Gore on it, correct?
A. Let me double-check that one.
Yes, sir.
Q. So I'm going to show you Teramoto Exhibit 9, which is another one in that chain and ask you the same question.
Have you seen that document in

your preparation for this deposition?

A. Again, I don't remember if it was this exact one, like this one is the same as this one here, so --

Q. You are pointing to 8?

A. Yeah. So they all start with -- 8, your document 8, and your document 9, both have the same, I guess, last e-mail.

Q. The same one from Assistant Attorney General Gore at the beginning, right?

A. Yes, but then the rest of it is totally different than the other one.

Q. My question is just, did you see that document during your deposition preparation?

A. So the answer is some version of this, but these are totally different, even though they have, you know, some of it is exactly identical, but for these, a lot of it is different.

Q. I will show you one more in the chain, Teramoto Exhibit 11.

Did you see that document in

preparation for your deposition?

If you want to say the same answer as for 9 --

A. Well, this one, they all start -- actually, this one, let me see this one.

This doesn't make sense. This looks like several different e-mail chains, because the document that --

Q. It is a three-pager, correct?

A. Yeah. So Exhibit Teramoto 11, so the page that has Bates number 0002636, and then the page number that has 0002638, both have the same e-mail at the end, and then the e-mail above it is the same, and then the e-mail above that is the same, and the one above that is the same, but then, again, I don't know how you guys do this, but then the rest of it is totally different than on this one, so it is, candidly, confusing to me.

Q. However confusing it may be, have you seen that document or any part of it during your deposition preparation?

A. I don't remember seeing -- I

remember seeing a part of it, but not in its entirety, and I don't remember because they are all versions of something.

Q. Have you seen Teramoto Exhibit 10 in preparation for this deposition?

A. I believe so, yes.

Q. Have you seen -- I think you testified that you reviewed about ten documents.

What other documents did you review other than the ones we've just gone over?

A. You mean other than these?

Q. Yeah.

A. I don't remember.

Q. Did you review Teramoto Exhibit 12 before today?

A. No. Would you like me to read it?

Q. No. Did you review Teramoto Exhibit 1 before today?

A. No.

Q. Thank you. You can put those aside.

MR. GERSCH: All right, at this

time I have no further questions. Other counsel will have questions.

We will be moving to compel additional documents, and for that reason I cannot say with certainty that this deposition is concluded for our clients, and I understand that you may not agree with that.

All right, who is next?

THE WITNESS: Thank you.

MS. WELLS: Can you give us an idea of what additional documents?

THE VIDEOGRAPHER: The time is 1:13 p.m. We are off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is 1:14 p.m. and we are back on the record.

EXAMINATION BY MS. GOMEZ:

Q. Good afternoon, my name is Julia Gomez. I'm an attorney for the LUPE plaintiffs in Maryland.

A. What does LUPE stand for?

Q. La Unión Del Pueblo. It's an organization in Texas.

A. Okay.

Q. So just going back to what you did to prepare for this deposition, when did you first learn that your deposition was going to be taken today?

A. I don't remember specifically. My best guess, if you want me to guess, is maybe a month or so ago.

Q. And to clarify, did you learn that the deposition was scheduled for today a month ago or did you first learn that your deposition was going to be taken a month ago?

A. I'm sorry, I thought the question was when I -- when I heard that it was going to be taken, not when it was scheduled.

Q. Yeah, that was my question.

A. Oh, okay. So I'm guessing, I don't remember the exact, but I'm guessing about a month ago.

In terms of the exact scheduling of it, I know we had gone back and forth and I had to rearrange things to be here today, because this was the day that worked for you guys, when some of the

other days that I proposed did not.
Q. And when did you review the documents you just went through, so Exhibits 1 through 12?
MS. WELLS: I object to the form.
Q. Of the exhibits you reviewed, when did you review the exhibits?
A. Well, again, I think I testified earlier, these exhibits, I don't know if they are the exact ones, and some of those I did not review at all. It would have been yesterday.
Q. And was that the only time?
A. There might have been some previous time that I had looked at stuff, but most of them would have been yesterday.
Q. Did you tell Secretary Ross that you were going to be deposed today?
A. Sure.
Q. Did you have a conversation with him about it?
A. Well, I told him I was going to be deposed.
Q. Did you discuss anything

further about it?
A. No.
Q. Did you discuss the citizenship question with Secretary Ross after you found out you were going to be deposed?
A. No.
Q. And when did you speak to him regarding the deposition?
A. I mean, in terms of scheduling, I don't know. I would have just said to him, oh, I'm going to be deposed this date.
Q. And did he respond?
A. I don't remember. It would have been "okay."
Q. What is your understanding of plaintiffs' allegations in this case?
A. None.
Q. As you sit here today, what is your understanding of the controversy that exists with respect to the citizenship question?
A. Some people think it should be on there and some people don't.
Q. Anything beyond that?
A. I mean, that's the controversy.

Q. Do you understand any further details about, for example, why some people don't think the citizenship question should be on the census?

A. I mean, the controversy, as I understand it, is, you know, does the question change or increase the ability to have an accurate count.

Q. And prior to the lawsuits, had you -- had anyone expressed this concern -- are you aware that anyone ever expressed this concern regarding the count and the citizenship question?

A. Well, I don't know when the lawsuits were filed.

Q. Prior to March 26th when the decision was made to add the citizenship question, were you aware that there were concerns about the count if the citizenship question was added?

A. I can't -- I don't remember anything specific.

Q. Other than attorneys at the Department of Justice and Department of Commerce, have you talked to anyone else

about the fact that you were being deposed today?

A. I don't know if -- well, I would have mentioned it to people for scheduling purposes.

Q. Anyone else?

A. Not that I can think of. I might have mentioned it to my husband.

Q. And what discussion did you have with your husband about the deposition?

A. I can't have my doctor's appointment on Friday because I'm going to have a deposition, so I have to have my doctor's appointment on Thursday.

Q. In connection with the lawsuits about the citizenship question, were you directed to search for files, e-mails, or references to the census or the Census Bureau?

A. I believe there was something that had been -- some sort of e-mail or some communication that there was going to be a search for documents, and so somebody came and searched my computer for whatever

the document search required.

Q. Did you do anything to look for documents?

A. Well, I was there, but you wouldn't want me to be the one searching and trying to figure out how to navigate the system.

Q. Did you search for any handwritten documents or handwritten notes?

A. I wouldn't have had any.

Q. Besides the people that came to your office to do the search, did you direct anyone else to conduct a search for you in connection with this lawsuit?

A. I mean, no. I mean, there was some e-mail that was sent with regard to the litigation and I said somebody came and searched my computer.

Q. Do you know if anyone searched your government-issued phone?

A. I think so, but I don't -- I don't know.

Q. So you've mentioned a couple of times that one of the big concerns with respect to the census that you're aware of

is the census budget, correct?

A. I have mentioned that one of the recurring topics was the census budget.

Q. And did you work on anything with respect to the census budget?

A. Did I? No.

Q. Are you aware of what the issues were with respect to the budget?

A. Well, the general issue of is it going to be within or over the budget, and what the appropriate budget should be.

But in terms of the details, again, I was not involved in the detailed discussions, so that's the best I would have.

Q. As far as you're aware, was there a concern about hiring half a million people to work on the census?

A. Well, there was a concern about how you ramp up the employment that the census will need to make sure that there's enough people to conduct an appropriate count.

Q. And was there any discussion about nonresponse follow-up?

A. I don't remember.
Q. How about the hiring of enumerators specifically?
A. I wouldn't have been a part of any of those types of discussions.
Q. When you did become aware about these discussions, who would be the people that made you aware about the census budget?
A. What do you mean, which discussions?
Q. About the census budget.
A. What was your question, again?
Q. How did you become aware about the census budget issues?
A. Well, I mean, that's a bit generic. I mean, when I say I knew that the budget was an issue, that's the issue that I knew of, the budget. The inner workings and the details of the budget I wouldn't know.
Q. I understand it's a broad issue, but just generally how did you become aware of these issues? Did you receive e-mails from certain people? Were

you in briefings?

A. I don't remember. I don't remember specifically, but I just remember there have been, you know, whether inside or outside of meetings, discussions about the census budget and getting our arms around, you know, the numbers that were inherited from the prior administration and sort of what contracts had already been agreed to that may or may not have been the best contracts or contractors to be, you know, involved with.

But I, again, was not involved in the detail, so it was, you know, I couldn't give you specifics.

Q. Are there any people that you know were involved in these discussions?

A. Yes. So, again, the main people who worked on the census in the Secretary's office was, you know, Karen Dunn Kelley, because when she came in, you know, census fell under her group, and Earl Comstock was involved.

Q. And as you heard concerns about the census budget, were there any concerns

that the addition of the citizenship question might make it more difficult to hire enough -- let me rephrase that.

Were there any concerns that adding a citizenship question would require that the Census Bureau hire more people?

A. No, I have never heard that.

Q. If Secretary Ross were to be deposed in this case and he asked you for help with prepping him, what would you do to assist him in prepping?

A. I wouldn't. That's for the lawyers.

Q. What if he asked you about the call you had with Mr. John Gore in the summer of 2017?

MS. WELLS: I object to the form.

A. I would tell him the same thing that I've told your colleagues, I don't remember talking to John Gore.

Q. You wouldn't offer to search through your e-mail to see if you can write down sort of a timeline of how you were involved?

A. No.
Q. When did you first become aware that Secretary Ross was considering adding a citizenship question to the 2020 census?
MS. WELLS: I object to form.
A. I think I testified I don't remember.
Q. Did you know before March 26th, 2018?
A. That what?
Q. That Secretary Ross was considering adding a citizenship question to the 2020 census.
MS. WELLS: I object to form.
A. I mean, there had been -- there had been obviously some communication, but, you know, the date March 26th doesn't ring anything special to me prior to these memos being shown to me.
Q. Either before or after March 26th, did you ever consult with the Department of Justice regarding the census generally?
A. Not that I remember.
Q. How about with John Gore

specifically, either before or after March 26th, do you recall ever communicating, e-mailing with him, regarding any subject, not just the census?

A. Again, there have been, you know, I think it is, frankly, one e-mail, it is one chain, where we've discussed that.

Do you want me to discuss it again? Because I can pull it out.

Q. No, I don't.

A. But I don't remember ever speaking to John Gore. I never met John Gore. John Gore could be in this room and I don't know what he looks like.

Q. Are you aware that Secretary Ross testified on March 22nd before the House Ways and Means Committee?

A. No.

Q. Earlier you mentioned that you, and correct me if I'm wrong, that you have met President Trump before during a transition meeting; is that correct?

A. No, that's totally incorrect. That's not right at all. So I never met

the President in a transition meeting. I met the President in a meeting.

I think your colleague asked if I participated in the meeting, and I think what I told him is that I was sitting in the room, but I did not have a speaking role, so I don't know if you lawyers consider that participating or not.

Q. You did mention a transition meeting that you participated in after Secretary Ross' hearing. Do you recall when that meeting occurred?

A. Yes, I think what I testified is that I participated in a transition meeting immediately after his confirmation hearing.

Q. Do you know when his confirmation hearing was?

A. No.

Q. Were you already employed with the Department of Justice when that meeting occurred?

MS. WELLS: I object to the form.

A. I never worked for the

Department of Justice.

Q. I'm sorry, Department of Commerce, were you already employed with the Department of Commerce when this meeting occurred?

A. Which meeting are you talking about?

Q. The transition meeting that occurred immediately after Secretary Ross' confirmation hearing.

A. No, the Secretary wasn't even the Secretary then.

Q. What was your --

A. He had his hearing, but he was not confirmed, so there was no Secretary -- there was no 39th Secretary of Commerce.

Q. So you mentioned that you participated in this transition meeting. Why?

A. Well, participated is --

Q. Attended.

A. Attended. So after the Secretary had his hearing, the transition team, which I don't know, you know, everybody who was involved in it, had set

up a meeting for him to discuss what they viewed as a route for his best transitioning into Commerce as the incoming Secretary.

Q. And why were you invited to this meeting?

A. Well, I don't know if I was invited, but I showed up with him.

Q. Why did you show up with him?

A. Because I was with him in D.C.

Q. Were you his assistant at that time?

A. What do you mean, assistant?

Q. Were you working for him either as an advisor or --

A. I was there for his hearing.

Q. And why did you attend his hearing?

A. Why not? It is fascinating.

Q. So you are saying you attended his hearing because you thought it was fascinating?

A. I thought it would be interesting.

Q. Did Secretary Ross ask you to

attend the transition meeting?
A. No.
Q. You just showed up?
A. I was with him -- I was with him at his hearing, and then after his hearing he went to have a meeting with the transition team, and I just went with him.
Q. Who was at the transition meeting?
A. I won't remember everybody. There was Marc Neumann, there was Lilly Gaynor, Earl Comstock, I believe Eric Branstad was there.
Let me see. There were other people there, but I don't know -- I didn't know who they were. And you should be reminded this is well over a year and a half ago.
Q. Did you discuss the census at that meeting?
A. I don't believe so.
Q. Do you remember what topics you discussed?
A. No.
Q. Did you discuss reapportionment

during that meeting?

A. No. I don't think I have ever been in a discussion about reapportionment.

Q. Immigration enforcement?

A. No.

Q. How about not counting non-citizens?

A. No. Again, this was a transition meeting about him and coming in on his, you know, initial days. None of that I remember being discussed.

Q. Have you spoken with Stephen Bannon before?

A. I believe I testified that I have.

Q. How many times?

A. I'm guessing, maybe three, tops.

Q. When?

A. I mean, I don't know. I mean, I'm sure at some point I saw him in the White House and I said hello. I don't know if he said hi back to me, so I don't know if that is actually a conversation or not.

And then he rode on the same

plane back from Saudi Arabia as we did, but I didn't really talk to him because you can't hear anybody on those planes.

Q. You said it was three, tops. Do you remember the third time?

A. No. I mean, I'm guessing.

Q. So have you ever had a substantive conversation with him about anything?

A. No. I don't think he knows who I am or what my name is.

Q. Does Secretary Ross speak to Stephen Bannon, maybe not anymore, but in 2017?

MS. WELLS: I object to the form.

A. I don't know.

Q. Are you aware that they ever spoke?

A. I'm sure there were pleasantries. If there was more discussion beyond that, I don't know.

Q. Is there anyone at the Department of Commerce that you are aware that has had conversations with Stephen

Bannon?

A. I have no way -- I have no way of knowing.

Q. So you mentioned that you are at the White House sometimes almost every day?

A. Sometimes. I mean, and sometimes there is weeks that I'm not there.

Q. When you go to the White House, do you go there -- what is it that you go to do?

A. Well, there will be trade meetings that I go there for. There will be meetings on Ivanka's Workforce Council. There will be meetings in the situation room on various topics. I will go there and have lunch.

Q. Have you ever had any meeting at the White House regarding the census generally?

A. No.

Q. How often does Secretary Ross go to the White House?

A. All the time.

Q. Are you aware of him having meetings there regarding the census?
A. No.
Q. Not --
A. Not to my knowledge.
Q. What topics are you aware that he discusses when he goes to the White House?
A. Well, you mean topics or meetings?
Q. Well, what is discussed during these meetings as far as you're aware?
A. I'm not always there, so I don't know.
Q. When you are there.
A. He will go there for trade meetings, and I'm a part of some of those. I have never heard census mentioned once in a single trade meeting the entire time I've been there.
And he will go for other meetings that I'm not a part of. So I don't know what's discussed at the meetings that I'm not a part of.
Q. Do you know if he has ever had

discussions, during those meetings, regarding immigration enforcement?

MS. WELLS: I object to the form.

A. Again, you would have to ask him. I can't --

Q. I'm asking --

A. I can't testify for a meeting that I'm not a part of what he discussed.

Q. I'm asking about what you are aware of. So if you are not aware, you can just say I'm not aware of anything.

Voter fraud?

A. What?

Q. Voter fraud?

A. Never -- I'm not aware of any.

Q. An undercount that may result in the census?

A. Just to back up, these are have I ever heard these topics at a meeting with the Secretary in the White House?

Q. Are you aware of the Secretary having these conversations with anyone at the White House?

A. Okay, no.

Q. Congressional apportionment?
A. No.
Q. Redistricting?
A. No.
Q. Have you ever had any conversations, and excuse my pronunciation, with Reince Priebus?
A. Have I ever had a conversation with him?
Q. Uh-huh.
A. He was on that plane back from Saudi, but, again, nobody really spoke because you couldn't hear over the engines. I can't think of any. I don't think Reince knows who I am.
Q. Are you aware of Secretary Ross having conversations with Mr. Priebus?
A. I'm sure they have, but I have no idea about what.
Q. Anyone at the Department of Commerce, are you aware of anyone at the Department of Commerce having conversations with Mr. Priebus?
A. I mean, it's not like people have conversations and then come and notify

me, so no.

Q. Have you ever had any conversations with John Kelly?

A. Yeah. Well, yeah, some.

Q. Do you know, when was the last time you spoke to Mr. Kelly?

A. The last time I spoke to General Kelly, I assume is who you are talking about?

Q. Yes.

A. Probably about maybe three weeks ago.

Q. And what did you discuss?

A. He had called me about some technical issue with water in California.

Q. Have you ever spoken to General Kelly about the census generally?

A. Never.

Q. The citizenship question specifically?

A. Never.

Q. Have you ever spoken with General Kelly about immigration enforcement?

A. No.

Q. Voter fraud?
A. Not at all.
Q. An undercount?
A. No.
Q. Congressional apportionment?
A. No.
Q. Redistricting?
A. No.
Q. Are you aware of General Kelly having conversations with Secretary Ross?
A. Sure.
Q. Do you know if they have ever spoken about the census?
A. No idea.
Q. Immigration enforcement?
A. No idea.
Q. Voter fraud?
A. No idea.
Q. An undercount?
A. No idea.
Q. Congressional apportionment?
A. No idea.
Q. Redistricting?
A. No idea.
Q. Do you know if anyone from the

Department of Commerce has ever had conversations with General Kelly about any of the topics we have just discussed?

A. I have no idea.

Q. Have you ever spoken to Kris Kobach, besides last summer?

A. Well, I don't even remember speaking to him, so other than that e-mail.

Q. Do you know if Secretary Ross has communicated with him before?

A. I have no idea.

Q. What about anyone at the Department of Commerce?

A. No idea.

Q. Are you aware that he also made a request to add a citizenship question to the 2020 census?

MS. WELLS: I object to the form.

A. Well, I mean, I've read the e-mail.

Q. Aside from the e-mail.

A. No.

Q. Have you ever spoken to Attorney General Jeff Sessions?

A. I think I might have said hi to him at the chief of staff meeting, but now that I think about it, I was late, so I don't even think I even shook his hand.

Q. How about Secretary Ross and Attorney General Jeff Sessions, are you aware of conversations between them?

A. I'm aware that they've had conversations. I'm not aware of the content of those conversations.

Q. Do you know if they have ever spoken about the census generally?

A. I have no idea.

Q. Do you know if they have ever spoken about immigration enforcement?

A. I have no idea.

Q. Voter fraud?

A. Zero idea.

Q. An undercount?

A. No idea.

Q. Congressional apportionment?

A. No idea.

Q. Redistricting?

A. No idea.

Q. So earlier you mentioned you

have spoken to Stephen Miller before, correct?

A. Right.

Q. About how many times have you spoken to him?

A. Maybe a handful.

Q. Do you remember the dates?

A. No idea.

Q. Have you ever spoken to Stephen Miller about the census?

A. No.

Q. Have you ever spoken to him about immigration generally?

A. No.

Q. Voter fraud?

A. No.

Q. An undercount?

A. No.

Q. Congressional apportionment?

A. No.

Q. Redistricting?

A. No.

Q. Are you aware of Secretary Ross ever having conversations with Stephen Miller about the census?

A. Not that I'm aware of.
Q. Anyone at the Department of Commerce ever have a conversation that you're aware of with Stephen Miller?
A. I'm not aware.
Q. I just need a moment to make sure I don't have any more questions.
A. Sure, take your time.
MS. GOMEZ: We have no further questions.
THE WITNESS: Thank you.
THE VIDEOGRAPHER: The time is 1:44 p.m. We are off the record.
(Recess taken.)
THE VIDEOGRAPHER: The time is 1:51 p.m. and we are back on the record.
EXAMINATION BY MR. CASE:
Q. Ms. Teramoto, my name is Andrew Case. I'm from the law firm of Manatt, Phelps & Phillips, and we represent the City of San Jose and the Black Alliance For Just Immigration in a case filed in the Northern District of California, No. 18-CV-2279.
A. Okay. Nice to meet you, sir.

Q. Nice to meet you. I want to go back a little bit to your time at Rothschild.

A. Sure.

Q. Did you work on any significant transactions during your time at Rothschild?

MS. WELLS: I'm going to object to the form.

A. How would you define significant?

Q. Do you remember any transactions you worked on while at Rothschild?

MS. WELLS: I object to the form again. You can answer if you can.

A. Well, so there's, at Rothschild, there's -- when we were there, there is the M&A practice and then there were also the funds. I don't offhand remember any sort of the M&A things that I would have worked on. This is, you know, 20 years ago.

Q. When you were at W.L. Ross & Company, can you describe in general what

your duties were and how they changed over the years?

A. Sure. So I was, you know, when I started at Rothschild, I was an associate, and working on the Rothschild Recovery Funds, and then as time went by I sort of moved up the ladder in terms of title, but I became primarily responsible for certain verticals of investments for the funds.

So I was primarily in charge of our coal investments, our rail investments, and our shipping investments.

Q. So did you make decisions about which investments to make in those three sectors?

A. Well, I was on the Investment Committee for some of the funds, so I would have been a part of the Investment Committee decision-making process.

Q. Do you remember any decisions that the Investment Committee made with regards to investment in those sectors?

A. Well, the Investment Committee approved various investments in those

different sectors.

Q. Sitting here today, looking back, do you remember any of these meetings, these committee meetings?

A. Investment Committee meetings?

Q. Yeah.

A. Not the specifics. I mean, I remember having them, but I don't remember the details of them.

Q. Do you remember the people that were on the Investment Committee with you?

A. Sure. I mean, they are different funds, so I wouldn't remember all of the different funds, but I would know who was on which specific Investment Committee, and it changed, but some of them.

Q. But you have a memory of the work that you did while you were at W.L. Ross & Company, which committee members you worked with?

MR. ROSENBERG: Just for the record, I think you were testifying as to Rothschild, right?

MR. CASE: I thought we moved

to Ross & Company.

Q. Were we still on Rothschild?

A. Do you understand the background between Rothschild --

Q. Yes, I believe I do. But why don't you explain to me how the transition happened.

A. So the first Rothschild Recovery Fund was -- I believe it was set up in 1997. So that was Rothschild Recovery Fund I, and then there was a Rothschild Recovery Fund II that was set up a couple of years after, I don't remember the exact vintage date of it, and then it was April 1st, and I believe it was 2000, it could have been 2001, I don't remember the exact time, or the exact year, that Wilbur bought out, and I don't know the exact transaction, so you would have to ask him exactly how it happened, but he bought out most of the general partner interest from the Rothschild funds and then they became WLR Recovery Funds, so that then evolved into the W.L. Ross portion.

And then in 2006, Invesco

purchased W.L. Ross & Co., and you would have to ask Wilbur Ross exact details of that, but the funds then, there were different sets of funds under that umbrella.

Q. So when you say the Rothschild Recovery Funds, was the fund consistent over the time period? Did you work on essentially the same fund for that period as it went from entity to entity?

A. That's not the way you look at it. I mean, there is different funds that have a certain life.

So you would have a Rothschild Recovery Fund, which I think -- I think the life of the funds, I believe it was seven years, and then you would have the next fund and then there were more funds underneath that.

So, you know, after a certain period of time, I don't remember when, but the investments that were in the first fund would no longer exist because we would have sold out of them, so there was no fund -- there was no sort of Fund I anymore, so it

is not as if there is still a -- I don't believe there is still a WLR Recovery Fund I.

Q. When you were at W.L. Ross & Company, were your main responsibilities determining what these funds would invest in?

A. Well, over what time period are you talking about?

Q. Take me through if it changed.

A. Okay. Well, in the beginning, I was an associate, so I sort of worked on a whole bunch of different projects on the M&A side, but then on the investment side I would be in more of a support capacity for the different, I guess different people who were working on the fund.

And then, I don't want to say as I got older, but maybe as I got more experienced, I started -- I found my own names and investments, and those I would take and propose to the Investment Committee.

And so for those, you know, I would be the point person on, you know,

finding investments, depending on what type of investment, you know, negotiating the purchase agreement, or if we were buying it out of bankruptcy, you would be negotiating with a different set of creditors, debtors. I mean, there is a whole bunch of different ways.

And then, you know, as the funds progressed, a lot of my time would continue to be on the investment side and finding the investments, but then there was also quite a bit of time that would be spent on the marketing side for our funds, and so the marketing side would be to go out and try and raise new money for the new funds that were being created.

Q. Sitting here today, do you remember investments that you identified and brought to the market, to the Investment Committee, without identifying them, obviously, but do you remember sitting here today any of the investments you recommended?

A. Sure.

Q. And how many years ago was

this?

A. It depends. I mean, the main one I remember is an investment that we had for 13 years.

Q. But you identified it originally?

A. Sure.

Q. When did Wilbur Ross first speak to you about joining the Commerce Department?

A. I know your colleague asked this before.

I don't remember specifically. You know, it would have been -- it would have been after -- well, clearly after he was nominated, but I don't remember specifically when.

Q. If I represent to you that he was nominated on Inauguration Day, which was January 20th, 2017, and he was confirmed on February 27th, 2017, do you recall if he spoke to you before he was confirmed about joining?

A. I thought he was confirmed on the 28th.

Q. Then I could have gotten that information wrong, I'm sorry.

A. Okay. And I don't know when he was nominated.

Q. I'm fairly confident, but I got the other one wrong by one day, but it was on or about Inauguration Day.

A. Again, I don't remember the specifics.

Q. That's fine.

Do you remember if he spoke to you about joining Commerce before the date of his confirmation?

A. Again, I mean, you know, we had talked loosely about it, but, you know, for me it was, you know, I have two small kids who live in New York City, and so I just remember it was a hard, you know, it was a very loose discussion of, you know, would you be interested, I'm paraphrasing here, but it wasn't anything sort of specific, because I struggled a lot, because, again, I have, you know, two small kids that are based in New York City.

Q. I think you testified this

morning that you joined as a senior advisor first before becoming chief of staff; is that correct?

A. Sure, yeah.

Q. Can you tell me about what your responsibilities were when you joined just as a senior advisor?

A. Well, remember, in the beginning, and I thought it was February 28th, I will have to look, I should know that. I'm pretty sure it was February 28th.

Q. I will take your word on that.

A. You know, I have never worked in the government and I don't believe he has ever worked in the government, so when I officially started, you know, in the beginning, it was, one, just trying to understand how the departments are run.

If you have never worked -- have you ever worked for a government?

Q. I have, but I'm generally not going to answer questions, but I will answer that one. I have.

A. So I will just say to someone

like me, who had never worked in the government, trying to explain to somebody who has never worked in the government, it is very hard. There is a different language that you speak. Just the way that things are run is very different than the way that we had run things on the private side.

So it was understanding, you know, how the department works, how the departments, not only the Commerce Department, but how Commerce interacts with Treasury and USTR and Energy and Transportation, and I'm sure for every administration, it is different, but for us it was just trying to understand how that works, interacting with the White House, learning about the different bureaus, how the different bureaus work, the budgeting.

You know, Commerce has 47,000 people. I don't think people realize the magnitude of what Commerce has. Commerce has historically, from what I have been told, has been a department that when administrations aren't sure where to put

something, they have sort of stuck it in Commerce, and so that's why you have, and this is what I talked a little bit about in the beginning, when you look at the range of the different things that are in Commerce, that Commerce oversees, it's a huge range.

So you have NOAA, which is the lion's share of the Commerce Department, and NOAA has to do with the fisheries, they deal with the satellite launches, they deal with the weather. I mean, it's huge. So that's NOAA.

You have Patents, and that's a huge thing. This year, the Patent Office just signed their 10 millionth patent, which was a huge thing for them. You obviously have Census as well.

And then, don't forget, you have two other things, which if anybody reads the news, you will see has been very active in this administration, and that is, you know, ITA, which is the trade, so a lot of the trade discussions and dialogues, you know, that's through ITA, and then you also

have, you know, BIS, which does a lot of the 232 tariffs on steel and aluminum.

So, you know, trying to get your arms around just situationally what is going on, that I would say in the beginning was really where I tried to focus some of my time, plus, you know, there was a transition team, and this is all language which, if you have worked in the government, then you know, this was new language to me, you have the transition team and then you have a landing team.

So these are all concepts that were completely foreign to me. So those are the types of things in the beginning that I worked on.

Q. You mentioned issues that are in the press. Do you have a role with regards to press relations at Commerce?

A. Did I mention issues in the press?

Q. You said if you read the press, you see. You said about trade, there were trade issues in the press.

A. Okay.

Q. So I'm just asking, do you have a role with how things are disseminated to the press from Commerce?

A. Sometimes.

Q. Which times?

A. Well, when there's things related to some of the trade actions, those are the ones that I can think of off the top of my head, some of the discussions on China, you know, those are some of the ones that come to top of mind.

Q. Do you receive briefings on press coverage of the Commerce Department?

A. What do you mean by briefings?

Q. Either someone talking to you or a packet of news clips, do you receive information on news coverage of Commerce in any way?

A. Sure. So in the last, let's say it is probably in the last month, it has been more organized, and I don't think it started in the beginning, so generally there was somebody in the Public Affairs Group who would compile the press clippings for Commerce and distribute them in the

morning, and then that fellow quit, and so there was a time when we didn't have that, and then we were able to get somebody else to reinstate that practice of trying to put out that -- those clippings.

Q. Do the clippings come with any kind of summary or are they just raw clippings when they came?

A. So usually the way that they do it is somebody collects them, so how they do it, I don't know, and how they pull them, I'm not sure, they collect them and then they usually have the title, and then underneath the title it will be usually the first or second paragraph of the article, but for some reason on the government phones, whenever I click into it, title, I theoretically should be able to pull up the whole article and I'm never able to do it. So I don't know if it's my phone or if it is something with the security system, but that's generally what they have.

To my knowledge, nobody -- I think it would be a huge task for somebody to try and read all the articles and then

summarize the articles and then put them in an e-mail with just the summary form by the morning time.

Q. So you will have like the first paragraph of the article, and you decide which articles are worth reading more than the first paragraph, in theory?

A. Generally, generally.

Q. Do you have a role in informing anyone at Commerce to take action based upon something that you've seen in the news coverage?

A. Do I have -- I'm sorry, can you ask that again?

Q. Would you ever say to someone else in Commerce that you saw a particular article and it raises an issue that that person ought to address?

MS. WELLS: I object to the form.

A. Do you have an example?

Q. No.

A. So you're asking if I read an article and I want someone to follow up on it?

Q. Sure.
A. Sure.
Q. And you've mentioned these various bureaus. Do you have a greater role in some bureaus than others?
A. On the PR side or in general?
Q. In general, going back to general.
A. Well, I think what I've said before is the areas, you know, I've focused my time more on some of the trade issues that Commerce has been working on.
Again, if you think about what NOAA and Census and even Patent does, Patent, it is extremely scientific and technical, and I don't have the background for that, so I'm less involved in those.
Q. When you added chief of staff to your duties in I believe the summer of 2017, did you take on additional responsibilities beyond what you had been doing for the first couple of months?
A. Well, I mean -- well, let me put it a different way.
I have never worked in the

government before, so I don't know what a typical chief of staff does, but it became a full-time position, and, you know, I started attending the chief of staff meetings that, you know, the White House would have. You are included in more things when you are officially the chief of staff than a senior advisor. So I would say that those duties did increase.

Q. When you were a senior advisor, it was not a full-time position?

A. I was not.

Q. How much of your time did it take?

A. I don't know. I don't know how to quantify.

Q. Well, did you have any other employment during that time?

A. Sure.

Q. And what was your other employment at that time?

A. I worked at Invesco.

Q. And so approximately how much of your work time was spent between Commerce and Invesco during those first few

months?

A. It would depend on the week. I mean, if I just guessed, maybe 60/40, depending, 70/30.

Q. 60 and 70 with Invesco or with Commerce?

A. It just depends. I mean, it just depends. Most of it was with Commerce.

Q. Forgive me if I'm paraphrasing wrong, and correct me if I am, but I think one of the things you said this morning is that you were copied on a lot of e-mails in order to gain situational awareness; is that fair?

A. Something like that, just aware.

Q. What do you mean by situational awareness?

A. Here is something, just I'm e-mailing it to the Secretary and you are copied on it.

Q. Does it mean you are aware of the people who are working on a particular issue?

A. It depends if I read it or not.
Q. Are you copied on these to gain awareness with the expectation that you will read them?
A. I don't know. I mean, you know, it is a very good question, because sometimes people copy me on e-mails that are totally irrelevant to me and have nothing to do with anything that I deem of utmost urgency, and sometimes they forget to copy me on things that I would have thought I would have been copied on.
So I wish I could answer that. I don't know, when people copy me, what makes them decide whether a particular e-mail is something that I should be on or not.
Q. Would you say that you were situationally aware of who was working on the decision to add a citizenship question to the 2020 census?
MS. WELLS: I object to form.
A. No. I would say that I was aware of who was working on census.
Q. Did you make any distinction

between working on census and working on the citizenship question?

A. No.

Q. And who was working on census?

A. Karen Dunn Kelley and Earl Comstock were the main people within the immediate.

Now, Census has, you know, Census has a huge amount of employees, and I have even been told when they come in, I don't sit in on these meetings, but when they come in to brief the Secretary, they literally have a van of people who are driven to Commerce, and, you know, I don't know those people.

Q. Have you ever met any of the people at Census?

A. So I have met Ron and Enrique, but I always get them confused. Those are the two that I remember.

Q. Forgive me again also if I'm paraphrasing, but I think this is something you said this morning, that you're not generally involved in census because of the scientific and technical nature of census;

is that a fair summary of your testimony?
A. Yeah. I mean, the census, I mean, the analysis and the people who work there, I mean, this stuff is very technical, and I don't have the background for that.
Q. Who does have the scientific and technical background with regard to census issues?
A. Well, I clearly don't.
Q. Do you know who does?
A. I think the people at Census do.
Q. Does Earl Comstock?
A. I think he has a very good command of a lot of the technical issues.
Q. Does he have a scientific background?
A. I don't know what he studied, but I think -- I mean, I think he actually does.
Q. Does Karen Dunn Kelley have a command of the scientific and technical issues regarding census?
A. Much better than I would.

Q. She comes from Invesco?
A. Yup.
Q. So does she come from -- what was her background at Invesco?
A. You would have to ask her. I don't know all the groups that she managed.
Q. And, again, I think this question was asked this morning, but I want to get it sort of clear, am I correct that this morning you testified that you personally did not provide any information to Ross to assist him in his decision as to whether to add the citizenship question to the 2020 census?
MS. WELLS: I object to form.
A. I think what I said is I never created anything, so if there was some e-mail that was forwarded that some lawyer deems, but I never created anything. I didn't work on census.
Q. But no e-mail you wrote was providing him --
A. No, no.
Q. And who do you understand to have been the decision-maker with regard to

adding a citizenship question to the 2020 census?

A. The decision-maker?

Q. Who was ultimately responsible for the decision?

A. I believe it would be the Secretary, but I'm not a lawyer, so if there is some other --

Q. I'm not asking -- I'm asking for your understanding --

A. Okay.

Q. -- sitting here as to what you understand. I obviously know you're not a lawyer, and I'm not asking you a legal question. If I am, she is free to stop me.

Who is John Thompson?

A. He used to work at Census. I don't -- I don't know what his title was, but I know he is no longer there.

Q. Did you ever meet John Thompson?

A. I may have, but I don't remember.

Q. I'm going to show you what is being marked as Exhibit 13.

(Teramoto Exhibit 13 marked for identification.)

Q. This is Bates number 3694. This is an April 20th, 2017 e-mail. It is quite short.

A. Okay. So this is basically a year and a half ago?

Q. Yeah.

A. Would you like me to read it, sir?

Q. I have a question about the subject line first, and I will ask it, and then you can talk about the subject line and then talk about the thing.

A. Okay.

Q. This appears to me to be from Brooke Alexander, trying to send an e-mail from Secretary Ross' e-mail and doing it herself; is that what you understand from that subject line?

A. Let me read it, sir.

(Witness perusing document.)

A. Okay.

Q. Can Brooke Alexander send e-mails from the Secretary's e-mail

ordinarily?

A. Well, Brooke Alexander is no longer there.

Q. Could she when she was?

A. Well, it says right here she couldn't, so I don't know.

Q. Are you aware of anyone having the ability to send e-mails from the Secretary's e-mail account?

A. The best person to ask is our IT person. I suppose somebody could send an e-mail from his phone.

Q. Simply by holding his phone and logging in as him?

A. Yeah. I mean, you could send an e-mail from his phone.

Q. Is it your understanding that people ever did send e-mails under the Secretary's e-mail account?

A. I don't know. I mean, I would be -- I would be surprised if somebody would send something from his e-mail account.

Q. And remind us of Brooke Alexander's title at this point, as best

you recall, or her position in general.

A. I mean, in the private world, I would say she was a secretary. In the government world, I don't even actually know. They call them -- they are not -- it's not an executive assistant, but it is not an assistant. So I don't know what her title was.

Q. And on the body of the e-mail, this says "we," underlined, "must get our issue resolved before this."

What is "our issue"?

A. I have no idea.

Q. You understood Earl Comstock to work on the potential addition of a citizenship question to the 2020 census?

MS. WELLS: I object to form.

A. I would say Earl worked on census.

Q. What other issues did Earl work on on census besides the addition of a citizenship question?

MS. WELLS: I object to form.

A. Again, like I said, Earl and Karen have worked on the census. All the

issues within Census, how they divvied them up or worked together, I don't know.

Q. And are you familiar with the National Advisory Committee on Racial, Ethnic and Other Populations?

A. Never heard of it.

Q. And did the Secretary meet with the census director after this e-mail was sent?

MS. WELLS: I object to form.

A. I have no idea.

Q. Would you have facilitated a meeting between the Secretary and the census director had he wanted one?

A. I mean, this is all hypothetical, but sure.

Q. Who would be the proper person to set up a meeting between the Secretary and the census director?

A. I mean, if somebody came to me, I would set it up. If they went to Earl, he would set it up. If they went to the scheduling team, who I don't remember who the scheduling team was at that date, they might have tried to set it up. If they

went to Brooke directly, she might have set it up.

Q. But you don't recall setting up a meeting between --

A. No, no.

Q. Do you know who the census director was at this point?

A. No.

(Teramoto Exhibit 14 marked for identification.)

Q. I'm going to show you a very easy-to-read document marked No. 14.

A. Would you like me to read this, sir?

Q. I would like you first to go to the second page, the April 27th e-mail from Beth Grossman, and identify any of the people whose names you recognize in the to and CC line, recognizing you're not one of them.

A. Okay.

Q. And starting with Beth Grossman herself.

A. So Beth Grossman, I have no idea who she is. Earl Comstock, I know who

he is.

Q. We can skip Earl.

A. David Langdon, I'm not sure who that is. Michelle McClelland works in the General Counsel's Office. Colin Holmes, I have no idea who that is.

Jim Schufreider, how do you pronounce that name?

Q. Your guess is as good as mine.

A. I don't know who he is.

Brian Lenihan works on Select USA. Beth VanHanswyk, I have no idea who she is.

Q. Okay.

A. Would you like me to read the e-mail, sir?

Q. Sure. Read the e-mail from the bottom, and then what we are going to talk about, Earl's e-mail, but familiarize yourself with the one below first.

A. Okay.

(Witness perusing document.)

A. Okay, I read the first one, sir. I didn't read the second one.

Q. That's fine.

Just to confirm the first one, is it fair to say this is a submission of draft testimony of John Thompson from Census to Commerce for review?

A. I don't know who Beth is, so I don't know if she is with Census or not.

Q. Okay. Is it fair to say this is a draft of testimony of John Thompson being submitted to Commerce for review?

A. Yes.

Q. Now let's look at the e-mail three days later from Comstock to the Secretary, copying you and Mr. Branstad.

(Witness perusing document.)

A. Okay.

Q. Is it standard practice for Commerce to review and approve Congressional statements by chiefs of the bureaus?

A. Yes.

Q. And do you do that review?

A. No.

Q. Who does that review?

A. Normally Earl reviews it. I can't imagine general counsel not. The

lawyers, they like to review everything. And then I believe that also the Leg Affairs Office reviews those types of things as well.

Q. And what is the purpose of that review?

A. To, I mean, my understanding is to have -- one is to be aware of what the bureau chiefs, or whomever is testifying, what they are testifying, and, two, to make sure that it is consistent with the Secretary's views.

Q. And these are revisions to public statements; is that correct?

A. Revisions?

Q. Or additions or changes or review, this is a review of a public statement.

MS. WELLS: I object to the form.

Q. A Congressional testimony.

A. So this would be I believe a review of something that eventually would be public.

Q. And is the advice given on

revisions of such a statement typically designed to help the Secretary arrive in a decision on a policy question?

MS. WELLS: I object to the form.

A. Can you ask that again?

Q. Sure. Let's strike it and make it more specific.

Do you believe that Earl Comstock here is providing Ross with information that Ross will use in his decision to decide whether to add a citizenship question to the 2020 census?

MS. WELLS: I object to the form. It also calls for a legal conclusion.

A. I mean, I have no idea. I can only tell you what -- I can read the same thing that you read.

I obviously didn't write the e-mail, but Earl Comstock sent to the Secretary, you know, "Mr. Secretary, I apologize for the rush. This testimony wasn't provided until Friday midday. Attached is the proposed testimony for John

Thompson, the director of the Census Bureau, to give the House Appropriations Subcommittee this Wednesday. I have reviewed the testimony, and there are a couple of points that I wanted to bring to your attention and be sure you approved of."

So, I mean, I'm not a dictionary, but when I read these words, he is basically bringing attention of certain things that are in this testimony that he thinks that the Secretary should be aware of.

Q. When you said that Comstock would do these reviews, were you referring specifically to the Census Bureau, or does he do that review for chiefs of any bureau?

A. I don't know about any, but I know he generally likes to review them himself.

Q. And just to refer, again, who is Eric Branstad?

A. So Eric Branstad, and this is when I testified earlier, I don't remember if he was -- his title was either White

House liaison or senior White House advisor, but he was a Commerce employee who was supposed to be interacting with the White House more than some of the others.

(Teramoto Exhibit 15 marked for identification.)

Q. This is Exhibit 15. This does not have a Bates number.

A. Would you like me to read it?

Q. I will show you which part of it I would like you to read, and I'm going to tell you that I got this from the internet while searching for the public testimony delivered on May 3rd, so I believe this is the public testimony as at least submitted. It is not a recording, obviously, of it.

A. And this was pulled from the Commerce website or something else?

Q. Or the Census website, I can't recall at this moment, or the Congress --

A. But it wasn't just posted --

Q. No, this is an official -- this is a document from some government website. I don't know if it was from the committee

or from the Census.

A. So we will assume it is not doctored.

Q. Yes. But I don't think we can assume that it is the exact words spoken, because people, even when they have written testimony, sometimes change things on the fly.

I would like you to look at, they are not numbered, but if we go nine, 2020 Status Update.

A. Okay.

Q. Can you read just that paragraph, please.

A. Just, sir, just so you know, I generally don't like to -- I'm happy to answer any questions, but I always generally prefer to read the whole thing, because it is hard if you just ask me to read one paragraph without having the whole context.

Q. I understand that, and if I ask you a question that you don't feel you can answer after reading this paragraph, can you let me know?

A. Sure.
Q. Okay.
(Witness perusing document.)
Q. Actually, yeah, in the second paragraph, just down to "local update." You don't need to read anything from there.
A. So you do or do not want me to read that paragraph?
Q. The second paragraph, the paragraph that you are on now, you can read, and I would like you to stop at "local update."
A. Okay.
(Witness perusing document.)
A. Okay. So I just read --
Q. The topics in question --
A. -- the two paragraphs out of your ten pages.
Q. That's correct.
Were you present for any conversations regarding a March 2017 deadline for submitting topics to the census?
A. Not that I remember.
Q. Were you present for any

conversations regarding a March 2018 deadline for submitting questions on the census to Congress?

A. Not that I remember.

Q. Did Earl Comstock, to your knowledge, discuss with John Thompson the deadline for submitting topics to Congress on the census?

A. I have no idea.

Q. Did Earl Comstock, to your knowledge, discuss with John Thompson the deadline for submitting questions on the census to Congress?

A. I have no idea.

Q. Who would know?

A. Earl Comstock.

Q. And did Secretary Ross have any conversations with John Thompson regarding the March 2017 deadline for submitting census topics to Congress?

A. I have no idea.

Q. Who would know?

A. Wilbur Ross.

Q. Did Secretary Ross have any discussions with John Thompson about the

2018 deadline for submitting questions to Congress for the 2020 census?

A. I have no idea.

Q. And who would know?

A. Wilbur Ross.

Q. And I want you to look at what I believe was marked as Exhibit 2 today, which is document number 3699. Is it not? Is it Exhibit 3? It is the May 2nd e-mail.

A. Mine are all messed up.

Q. It is Exhibit 2. I have another copy of it if you want to look at it. It is not stamped.

A. I have it. I will find it.

Q. It is this one, if you want to go visually. I think that's it, the next one there.

A. Okay.

Q. Great.

Looking at the May 2nd e-mail from Ross to Comstock, copying Ellen Herbst, I understand you're not on that original e-mail, the sentence "Worst of all, they emphasize that they have settled with Congress on the questions to be

asked."

Do you know who Secretary Ross means when he says "they"?

A. I have no idea.

Q. And who would know?

A. Wilbur Ross.

Q. And in the e-mail that you write above, in this e-mail, are you providing any information to Wilbur Ross to assist him in arriving at his decision to add the citizenship question to the 2020 census looking at just what you wrote?

MS. WELLS: I object to the form.

A. What I wrote is "I continue to talk frequently with Marc Neumann and we often have dinner together. He will not leave les, but is in love with the census and talks about it nonstop. Do you want me to set up another meeting? Let me know if you want to have a drink or get together with him over the weekend. Wendy."

I don't see anything in there about the citizenship question.

Q. In fact, you have testified

that on no occasion did you provide Ross information that you drafted that was helping him with his decision?

A. I think I testified that I never created any documents related to that.

Q. Just for reference, what is "les" there, is that a person, is that a company?

A. Les is a person.

Q. Who is it?

A. It is who Marc Neumann works for.

Q. And just for the record, who is that?

A. I don't know the guy's last name.

(Teramoto Exhibit 16 marked for identification.)

Q. I'm showing you a document marked as Teramoto Exhibit 16, No. 2167. It is an e-mail from you to James Rockas and Earl Comstock.

To the extent you can review it, I would like you to review it.

A. Sure.
(Witness perusing document.)
A. Okay.
Q. Who is James Rockas?
A. James Rockas is a Commerce employee who works in the Public Affairs Department.
Q. And who is he referring to when he says Gillian?
A. I think it is a reporter.
Q. Do you know who?
A. I'm not 100 percent sure.
Q. Are you familiar with a reporter named Gillian Tett of the Financial Times?
A. I have heard of Gillian Tett.
Q. Have you read any coverage of Gillian Tett on Commerce Department news?
A. Have I? Not really.
Q. What do you see as going on in this e-mail?
A. Well, there is an e-mail from James, I believe, to the Secretary. I don't know who else was on it.
Q. Why not?

A. Because of however these e-mails are produced.

Q. This e-mail doesn't show who James Rockas' e-mail is sent to; is that correct?

A. Mine doesn't. Does yours?

Q. No.

Does this e-mail show if anyone was copied on this e-mail that James Rockas sent beginning "Mr. Secretary"?

A. This has been my continuing complaint. No.

Q. If this document had been produced in a native format where it showed exactly who it was sent to and copied to, would it be easier for you to answer questions about it?

MS. WELLS: I object to the form.

A. Well, when you ask me if it was sent to me or how, if I was on it, if it had that listed on there, it would be easier for me to answer.

Q. And has this been an issue with any other documents today?

A. Sure.
Q. Have you seen documents today that you were unable to determine whether they were sent to you or not?
A. Well, look, I don't know if this is the -- I don't know how these things are produced.
Q. I understand that. I'm asking, looking at the documents you've looked at today, have you had a difficult time understanding which e-mails were sent to which people?
MS. WELLS: I object to the form.
A. Again, we are looking at the same e-mail, so I can't tell who he sent -- who James sent it to.
Q. Okay. So that's a yes, you can't tell who he sent it to by looking at this in this form?
A. Correct, for this one, I cannot tell who he sent it to.
Q. Can you tell who you sent your response to?
A. Sure.

Q. Who did you send it to?
A. I sent it to James Rockas and I CC'd Earl Comstock.
Q. And who is Karen in the first line, is that Karen Dunn Kelley?
A. Yes.
Q. What are you asking Mr. Rockas?
A. Well, I don't -- I don't remember. If I read the e-mail, it says "Does Karen know about this." So one could infer from my e-mail that I was asking James if Karen knew about this.
Q. And you follow up with "She just had a discussion with him about media."
Who do you believe you are referring to when you say "him"?
A. I can't be 100 percent sure.
Q. You can't be 100 percent sure who "him" is? Can you make an educated deduction based on the context of the e-mail who "him" might be?
A. I would say it is either Earl or the Secretary.
Q. And you've got six or seven

exclamation points after "does Karen know about this"?

A. Sure.

Q. How often do you use exclamation points in e-mail?

A. All the time.

Q. Does this show that this is a particularly important communication?

A. Or I was just being dramatic.

Q. And in your e-mail to Mr. Rockas, are you providing information for the Secretary to make a decision on the citizenship question?

A. In my e-mail to James?

Q. Yeah.

A. "Does Karen know about this!!!!!! She just had discussion with him."

I don't see anything on this about citizenship.

(Teramoto Exhibit 17 marked for identification.)

Q. Let's mark this next one. This is going to be Teramoto Exhibit 17.

What does this look like?

A. It looks like an e-mail chain.
Q. Okay. From whom to whom?
A. It looks like from James to people. I don't know who James sent it to.
And then I'm on it, from myself to James, Karen Dunn Kelley, Mike Walsh and Earl Comstock, and then there is an e-mail back from James to me.
Q. And you're asking if he sent these quotes before. "Did you already send this to a reporter?"
A. I said to him, "Did you already send this to reporter?"
Q. Do you typically approve communications from the Public Information Office to reporters?
A. Well, "approve" is a different word. I, on occasion, may have comments.
Q. Do you typically review draft statements to reporters from the Public Information Office?
A. It depends. I haven't reviewed this.
Q. We will in just a second. I want to ask you questions about process, if

you don't mind.

A. Sure.

Q. Is it typical for the Public Information Office to send you drafts of what they are planning to send to reporters?

A. They will generally copy me on it, depending on what it is, not always, and they will send it to a group for comment.

Q. And does it matter whether the issue is more or less important as to whether you will be copied before or after it is sent to the reporter?

MS. WELLS: I object to the form.

A. I have no idea how they decide when they start to include me in these things.

Q. And how often do you have comments back to the Public Information Office when you get comments from --

A. Rarely, because it's not my expertise.

Q. So when you do respond to the

Public Information Office on a draft to a reporter, it's not particularly common; is that correct?

A. No, I didn't say that. It just depends.

Q. What does it depend on?

A. It depends, A, if I read it, B, where it is in the system, C, if anything pops out at me.

Q. I guess I would like you to review this, but I want you to review this with the question in mind as to whether you see anything in here that is relevant to the decision to add a citizenship question to the 2020 census.

So just review it with that in mind and tell me if you find anything.

A. So you want me to read this? Because I don't remember having read this before.

Q. Okay. Then let's ask this question:

Why would you ask him if he had already sent it to the reporter without reading it?

A. I'm wondering if he already sent it without getting comments from people.

Q. Do you believe you did read this at any point?

A. No. I mean, I might have skimmed it, but I've got to tell you, an e-mail this long, I wouldn't read.

Q. What would you skim it for?

A. Anything that pops out. But I don't remember reading this. If you would like me to, I'm happy to read it now.

Q. If you are representing that you didn't read it at the time, I'm --

A. I'm saying I don't remember reading it. I don't believe I have read it, but I'm happy to read it now if you would like me to.

Q. Just for the ease of our court reporter, we both have done this a little bit, but let's let each other finish before we start --

A. Oh, I'm sorry.

Q. I have interrupted you a few times. That's all right. I just want to

make sure it is easy for him to transcribe what we are saying.

Let's look at a third iteration of this e-mail, actually.

(Teramoto Exhibit 18 marked for identification.)

Q. This is now 18, and this is document 2160. You can keep 17 in front of you for just a minute.

I want you to look at the e-mail that's from you on document 18 and see if you believe that that is the same e-mail that is on document 17 with the subject line "Re: Updated with his further edits below."

A. I believe it is.

Q. Is it the same date?

A. Yes. So it is my name. It was sent Friday, March 16th, both of them were, 2018, at 9:20 in the morning, to James, the names appear to match.

Q. And the time matches?

A. Yes, sir.

Q. The time matches?

A. Yes, sir. It says Friday,

March 16th, 2018 at 9:20 a.m.

Q. And the text of the e-mail matches to the extent that it's not redacted?

A. Right. So, I mean, my comment was "Did you already send this to a reporter?"

Q. Do you have any reason to believe that the e-mail that's redacted is any different than the one that is not redacted?

A. I mean, I'm not an IT expert.

Q. But you don't see anything different in the part of the e-mails you can read?

A. Well, the part above is different.

Q. Yes.

A. So, I mean, the one above is from James Rockas to me and the other one is not. So if it is the same e-mail chain, you know, I would have to -- again, I'm sure an IT expert could tell you.

Q. And in the top, who do you believe Karen to be in that first e-mail,

is that Karen Dunn Kelley?

A. I only know one Karen, Kelley.

(Teramoto Exhibit 19 marked for identification.)

Q. This is going to be 19. I'm not going to ask you to read too much of this. I'm going to try to identify people in this chain, if that's okay.

A. Okay.

Q. So let's look on the last page, in the middle, this e-mail appears to be from Victor Ramos from Newsday.

Is that a name that you are familiar with?

A. Not at all.

Q. Then I want to go back a couple of pages, past the redacted area.

We have some people on the second page, which is 2200, and that's from Kevin Manning. And who is Kevin Manning?

A. Kevin Manning works in the Public Affairs Department.

Q. Of Commerce or of Census?

A. I'm sorry, of Commerce.

Q. And above that is Christa

Jones. And who is Christa Jones?

A. I don't know her exact role, but Christa Jones works at Census.

Q. Do you know what positions she performs at Census, regardless of her title?

A. I don't.

Q. Is she an intergovernmental affairs person?

A. I don't know, sir.

Q. And then at the top, we have Christa Jones to Comstock and Kelley.

I just want you to look through and tell me if you see Wilbur Ross copied on any of these e-mails.

(Witness perusing document.)

A. I did not see his name. Would you like me to double-check?

Q. No, I didn't see it either. I think single-checking, you seemed to be pretty thorough in a single check.

What role do you play in editing press releases and public statements issued by the Census Bureau, if any?

A. I haven't played really any role.

Q. And what role do you play in editing public statements made by the Commerce Department, if any?

MS. WELLS: Objection, asked and answered.

MR. CASE: Census Bureau first, this was Commerce Department.

A. I think I said before, it just depends.

Q. Have you made personal edits to public statements released by the Commerce Bureau?

A. I imagine I have definitely made edits; whether they were taken or not, I have no idea.

Q. And have you made edits or comments to Census statements about the potential wording of a race and ethnicity question on the 2020 census?

A. No.

Q. Have you reviewed any documents about the potential addition of a race and ethnicity question on the 2020 census?

A. Not that I remember.
Q. About the budget for the census?
A. I'm sorry, is this about public statements?
Q. Have you made edits to public statements about census budgeting?
A. No, I don't believe so.
Q. Have you reviewed public statements about hiring enumerators for the census?
A. I don't remember reviewing any public statements regarding hiring enumerators.
(Teramoto Exhibit 20 marked for identification.)
Q. We are on No. 20. This is an e-mail stamped 2525. It is blissfully short, so I think you can review it in full before I ask you questions about it.
Let me know when you're ready.
(Witness perusing document.)
A. Okay.
Q. The subject is Census, and the e-mail is "Please arrange a quick update

for me tomorrow a.m."

What steps would you take to arrange for a quick update for the Secretary on census issues?

A. So, first, I don't remember specifically what I did here.

My best guess, if that's okay with you, sir --

Q. Sure.

A. -- is I would have forwarded that e-mail to Karen and Earl and said "here."

Q. Would you have contacted anyone else?

A. Maybe I would have CC'd the scheduler and his assistant just so they have this situational awareness that he is asking for it, but no.

Q. Would you contact anyone at Census?

A. No.

Q. Would you contact anyone at DOJ?

A. No.

Q. Would you contact anyone at the

White House?

A. No.

Q. And is this the sort of thing that is typical of your position regarding other issues, arranging for Ross to meet and speak with Commerce Department --

A. It depends. I mean, my guess is that something was on his mind on census, and he thought, oh, here, Wendy, do this. But he could have just of easily sent that exact same e-mail to Karen or Earl.

Q. But could he have sent this e-mail to you with regard to, for example, a trade issue?

A. Sure.

Q. And you would have contacted the people who were working on that issue to get them to brief him?

A. Depending on what it was, I would have tried to figure out what he wanted and then put the right people there.

Q. Are there issues where he would write to you an e-mail for an update on a topic and you would be the person who would

brief him?

A. Sure.

Q. What are the issues that that would be true of?

A. I would say when we were talking about the China discussions, he had asked me for an update.

Q. And that's something that you would work directly on, the China discussions?

A. I would say I was more knowledgeable.

Q. Okay. And do you recall what Karen or Earl said when you reached out to them, if you did?

A. I think the first thing I said in my -- when I testified was I don't remember what I did. So I don't know if I actually reached out to Karen and Earl.

Q. Okay.

(Teramoto Exhibit 21 marked for identification.)

Q. This is Exhibit 21. It is Bates stamped 3597.

Let's identify the people on

it, to the extent we haven't identified them before, and then we can read the e-mail.

Starting with the sender on March 20th, do you know who Michael Phelps is?

A. Yes. He is in the Budget Office.

Q. Of which department?

A. Oh, of Commerce.

Q. Mike Platt?

A. Mike Platt is the head of our Leg Affairs.

Q. And Ross Branson?

A. And Ross works with Mike Platt.

Q. The only other name we don't know is Lisa Casias.

A. So Lisa Casias is -- I think she is the acting CFO right now.

Q. And the date of this e-mail is March 20th, 2018?

A. Correct.

Q. And the people mentioned are Bob Bonner and Mr. Serrano, and tell me if you can identify them, and then we will

talk about the text.

A. I have no idea who they are.

Q. Are you familiar with a member of Congress with the last name Serrano?

A. No.

Q. I think you might have been asked before about the Secretary's Congressional testimony, but do you play any role in preparing the Secretary for Congressional testimony?

A. No.

Q. Just looking at the link in the article the person is referencing, "Trump Fundraising Off Controversial Push To Include Citizenship Question In Census," that is just from the website, the title of the article.

Were you familiar with any fundraising that was being conducted related to the citizenship question?

A. Not at all.

Q. Did you look at the article that this linked to when you got this e-mail?

A. No.

Q. Do you recall this e-mail at all?
A. No.
Q. Did you take any action when you got this e-mail?
A. Not that I can remember.
Q. Who did prepare the Secretary for his Congressional testimony?
A. So I guess depending on the topic, but normally it is prepared by the Leg Affairs Group, general counsel.
So that would be Mike Platt and Ross, and just depending on what he is -- what the hearing is on sort of depends which group is most involved in his testimony.
Q. And would you be present for that preparation?
A. No.
Q. Would you know it was going on?
A. Loosely.
Q. Would they be -- would they provide him with written talking points in advance of his preparation generally?
A. I believe he has written

testimony, and it is also cleared by the White House as well.

Q. In addition to his written testimony, does he have written responses to anticipated questions and answers?

A. That I don't know.

Q. Do you see the written testimony before he is prepared?

A. I may or may not, depending on what else is going on, I may or may not have time to read it.

Q. Do you recall how long Secretary Ross prepared for his March testimony?

A. I have no idea.

Q. Are you familiar with someone named Sahra Park-Su, or Sahra?

A. Sahra.

Q. Sorry.

A. I'm familiar with who she is.

Q. And who is she?

A. Well, I mean, I can visualize her, but she -- I think she was working in the Policy Department.

Q. Do you recall what her title

is?

A. No.

Q. Do you recall whether anyone other than yourself has the title chief of staff at the Commerce Department?

A. I don't think she has that title.

Q. I'm not representing that she does, but I saw that reference somewhere and I don't know whether it was accurate. I don't know if the person representing it was accurate.

A. No. I mean, there is -- so I'm the chief of staff to the Department of Commerce, but then the different bureaus also have their respective chief of staffs.

So, for example, Patent, Andre Iancu has his own chief of staff. Gil Kaplan for ITA has his own chief of staff. I don't know -- I don't think there is a chief of staff for Census. I don't know.

Q. Is there like a chief of staff of a division within Commerce that's not part of a bureau that you know of?

A. Sorry?

Q. If it is unclear, I can try to be more specific.

A. Okay.

Q. My understanding is there is a number of bureaus and then there is Commerce, not part of any bureau.

Are there divisions within Commerce that's not part of any bureau?

A. Are there divisions in -- well, I mean, we would have to pull up an org chart, but in general, I will get it not perfect, but there is -- so you have sort of -- you have the Secretary, and then there is his chief of staff, which is me, and then you have the general counsel, you have I think even CIO, chief investment officer, you have Policy, you have Leg Affairs, Public Relations.

Then those are separate than the actual sort of departments of NOAA, ITA.

So those groups, some of them have chiefs of staff. The ones up here that I just mentioned, to the best of my knowledge, I don't think they have chiefs

of staff.

Q. And circling back to your preparation for this deposition, how long did you prepare for this deposition?

A. An hour and a half.

Q. And who was present?

MS. WELLS: Asked and answered.

A. Should I answer it?

Q. Go ahead.

A. The four right here.

MR. CASE: I would like to go off the record. We are going to have a short meeting and see what else we need to do.

THE VIDEOGRAPHER: The time is 3:14 p.m. This marks the end of media unit number four.

(Recess taken.)

THE VIDEOGRAPHER: The time is 3:23 p.m. and this begins media unit number five.

BY MR. CASE:

Q. Ms. Teramoto, I just have a few follow-up questions.

A. Okay, sure.

Q. You said that Congressional testimony is sent to and approved by the White House; is that correct?

A. I believe it is sent to -- I believe it is sent to, I think it is OMB, so I consider that part of the White House.

Q. Do you know who it is sent to personally, individually?

A. No.

Q. You said it is reviewed by Legislative Affairs. Is that Commerce Legislative Affairs or some --

A. Yes, sir, it is Commerce Legislative Affairs.

Q. And when you said the White House, you mean Office of Management and Budget?

A. Yes, sir, I believe.

Q. Are you involved in the process of testimony being passed from one person to another for review?

A. No, sir.

Q. Do you review Congressional testimony yourself by Secretary Ross before it is delivered?

A. No.
Q. I want to go back to Exhibit 17 just for a minute or two.
A. Sure.
Q. I just want to confirm that I understand your testimony.
You said that you did not read this when it came in or you don't remember if you read it when it came in?
A. I don't remember, but just given the length of it, I highly doubt that I read this whole thing.
I think I said what I might have done is skimmed it, and you asked me what I would have skimmed it for, but, I mean, I don't remember reading this in detail.
Q. So if you didn't read it, why did you ask Mr. Rockas if he had already sent it to the reporter?
A. I think I was asking in the process where he was on this.
Q. And why is it important whether he sent it to the reporter?
A. Well, again, I was trying to

figure out whether he had already sent this to the reporter or if it had been circulated for review.

Q. And he doesn't respond I think for a few hours.

Did you follow up with him as to whether he had sent this to the reporter after this that you recall?

A. I don't remember.

Q. And how often do you check with the Press Office as to whether a public statement has gone out or not?

A. I don't know how to answer that, how often?

Q. Well, half the time, a quarter of the time?

A. It is hard for me to sort of -- I don't have a good estimation of that.

Q. And would you consider it significant to check with the reporter whether or not a particular set of talking points has gone out yet?

A. Could you ask that again?

Q. Is that a significant thing to do, to ask the reporter whether a set of

talking points has gone out?

MS. WELLS: I object to the form.

A. So are you asking is it significant for me to ask James if it has gone to the reporter?

Q. Yes.

A. Because I don't normally speak to the reporters directly.

Q. If I gave the impression I thought you were speaking to the reporter, I apologize.

Is it significant for you to check with James?

A. No.

Q. Is it regular, is it commonplace for you to check with James when things have gone out?

A. I would say it's not uncommon.

MR. CASE: I don't have anything more today.

I think along with David, we have some possible motions to compel and so on, so we're not going to close this yet, and we understand that you would disagree,

as we did this morning. But for today we are done.

MS. WELLS: I just have a few follow-up questions.

EXAMINATION BY MS. WELLS:

Q. Ms. Teramoto, you testified earlier I believe that you met with the attorneys here in the room from the Department of Commerce and the Department of Justice; is that right?

A. Yes.

Q. And you also testified that during the course of that meeting with us, you reviewed some documents?

A. Yes.

Q. Did any of the documents that plaintiffs showed you here today that you testified you reviewed or could have reviewed yesterday refresh your recollection about any of the events that were reflected in the documents?

A. No.

Q. Did any of the documents that we showed you during the course of our meeting yesterday that plaintiffs have not

shown you today refresh your recollection of any of the events about which you testified about today?

A. No.

Q. Did we have any conversations during the course of our meeting, just generally, not specifics, did we have any conversations during our meeting that refreshed your recollection about any of the topics about which you were questioned today during your deposition?

A. No.

Q. And are you aware of any materials that are available anywhere or in any source or in any form that would help to refresh your recollection?

A. I don't believe so, no.

MS. WELLS: Okay, I have nothing further.

MR. CASE: Thank you.

THE VIDEOGRAPHER: We are going off the record at 3:29 p.m.

This concludes today's testimony given by Ms. Wendy Teramoto. The total number of media units was five and

will be retained by Veritext.

[TIME NOTED: 3:29 p.m.]

CERTIFICATION

I, TODD DeSIMONE, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of August, 2018.

_____

TODD DESIMONE

* * *

New York Immigration Coalition v. US Dept. of Commerce
Wendy Teramoto

INSTRUCTIONS TO THE WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

2991395

New York Immigration Coalition v. US Dept. of Commerce

Wendy Teramoto

E R R A T A

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New York Immigration Coalition v. US Dept. of Commerce
Wendy Teramoto

ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

_____ _____

DATE SIGNATURE

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

vs. Case No. 1:18-CF-05025-JMF

UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,

Defendants.

Washington, D.C.

Thursday, August 30, 2018

Deposition of:

EARL COMSTOCK

called for oral examination by counsel for Plaintiffs, pursuant to notice, at the office of Arnold & Porter, 601 Massachusetts Avenue NW, Washington, D.C., before KAREN LYNN JORGENSON, RPR, CSR, CCR of Capital Reporting Company, beginning at 9:08 a.m., when were present on behalf of the respective parties:

mean to break your line of questioning. Actually, we've been going about an hour and a half. Would now be an appropriate time for a break?

MR. COLANGELO: Yes.

MR. GARDNER: Let's take a break.

VIDEOGRAPHER: This concludes Media Unit Number 1. The time on the video is 10:32 a.m. We are now off the record.

(Off the record.)

VIDEOGRAPHER: This begins Media Unit Number 2. The time on the video is 10:45 a.m. We are on the record.

BY MR. COLANGELO:

Q Mr. Comstock, we were talking about the Secretary's June 21, 2018 memo which we marked as Exhibit 5. Do you still have that in front of you?

A I do.

Q Okay. That memo says that other senior administration officials had previously raised this question. Do you see that line?

A Yes.

Q Who are those other senior administration officials?

A You'd have to ask the Secretary.

Q You don't know yourself?

A I don't.

Q You have no idea which other senior administration officials raised this question, other than the Secretary?

A No.

Q You never asked him where the idea came from?

A Nope.

Q He never told you where the idea came from?

A Nope.

Q You spent a lot of time on this issue?

A Not relative to a lot of other things I work on, no.

Q How would you characterize the amount of time you spent on this issue?

A One one-hundredth of my time.

Q You agree that it's an important issue?

A Correct.
Q It was important to the Secretary?
A Correct.
Q He was motivated to get this done?
A He was working on a lot of different issues at the time.
Q But this one was important to him?
A Yes. Absolutely.
Q Okay. And when you saw the draft of this memo before June 21st and it refers to other senior administration officials, you didn't yourself have any view or understanding of who those other administration officials were?
A I did not, no.
Q You didn't ask the secretary who those other administration officials were?
A No.
Q Okay. When recommending that he sign the memo, he didn't say to you who are the other senior -- who the other senior administration officials were?
A We did not discuss that, no.

A That's correct.

Q Okay.

MR. GERSCH: Let's take our short break here.

MR. GARDNER: How long?

MR. GERSCH: Ten minutes or so.

VIDEOGRAPHER: This is the end of Media Unit Number 4. The time on the video is 1:58 p.m. We are off the record.

(Off the record.)

VIDEOGRAPHER: This begins Media Unit 4. The time on the video is 2:14 p.m. We are on the record.

BY MR. GERSCH:

Q Mr. Comstock, we're back on the record. Before the break, I was asking some questions about 2018. Now I want to go back to 2017.

A Okay.

Q You with me?

A I'm with you.

Q All right. I want to go back to the spring of 2017 when Secretary Ross requests the

inclusion of a citizenship question on the census. At that point in time, the Department of Justice had made no request to Commerce for the addition of a citizenship question, correct?

A That's correct.

Q And they certainly hadn't asked -- withdrawn.

The Department of Justice certainly hadn't asked Commerce to add a citizenship question because of the VRA. That's also correct; isn't it?

A Well, they didn't ask us to add a citizenship question at that point. So speculating as to why they would ask is irrelevant.

Q I'm not asking you to speculate. The one thing we can be sure of is they didn't ask about the VRA is because they didn't ask at all?

A Correct.

Q All right. And when Secretary Ross says to you in the spring, in whatever words he used, that he wants a citizenship question added to the

census, wouldn't you have had a discussion with him at the time about why he wants that?

MR. GARDNER: Objection. Asked and answered.

THE WITNESS: Again, the answer is no, I would not have a discussion. My boss, if he asked me to investigate something, I investigate it and report back the results.

BY MR. GERSCH:

Q Is your testimony you did not have a discussion?

A I did not.

Q And you're not saying -- well, withdrawn.

Wouldn't it be helpful to you in your job to assist the Secretary to have an understanding of why he wanted the citizenship question?

MR. GARDNER: Objection. Form.

BY MR. GERSCH:

Q You can answer.

A Again, I didn't have any particular doubts about why a citizenship question would be useful, so, no, it would not have hurt me to ask.

Q I'm not asking whether you had doubts. My question to you is a little bit --

A I understand your question.

Q My question, sir, is: Wouldn't it be helpful to you in your job of assisting the Secretary to have a complete understanding of why the Secretary wants to add a citizenship question?

MR. GARDNER: Objection. Form.

THE WITNESS: Again, it's not relevant to the question of whether or not he needs -- of whether or not a question should be added, so, no.

BY MR. GERSCH:

Q Is it your testimony that why he wants a citizenship question to be added is not relevant to whether it should be added? Did I -- did I hear that right?

MR. GARDNER: Objection. Mischaracterizes the witness's prior testimony.

THE WITNESS: My test- --

MR. COLANGELO: That's exactly what he said, Counsel.

THE WITNESS: No. My testimony is: The

rationale for why he would want it added is not relevant to my initial inquiry as to whether or not a question can be added.

BY MR. GERSCH:

Q Yeah. My question was a little different. The question I am trying to get you to focus on is: In your work for the Secretary, wouldn't it be helpful to you to understand as fully as possible why he thinks it's a good idea to add a citizenship question?

A And let --

MR. GARDNER: Objection. Asked and answered.

THE WITNESS: And let me get you to understand my answer, which is, no, it would not make a difference, because I don't need that information to investigate the question.

BY MR. GERSCH:

Q Anyone ever say anything to you about why the Secretary thought it was a good idea -- withdrawn.

Am I right that your testimony is that

you've never had a discussion with the Secretary about why he thought it was a good idea to have a citizenship question added?

A That's correct. I have not had a conversation with him, no.

Q Okay. And did anyone else say anything to you about why the Secretary thought it was a good idea to have a citizenship question added?

MR. GARDNER: Objection. Form.

THE WITNESS: Again, no.

BY MR. GERSCH:

Q All right. If I remember correctly, you testified you worked in a bullpen area?

A Correct.

Q Outside the Secretary's office?

A Yes.

Q I'm not sure I've got all the people who were there, but Wendy Teramoto was there, right?

A Correct.

Q James Uthmeier was there?

A No.

Q I'm sorry.

You were there?

A Yes.

Q Eric Branstad, was he there?

A Yes.

Q That's three.

Izzy Hernandez, that's four. Was he there?

A Yes.

Q Who was the fifth?

A James Rockas.

Q And I'm right that there were five?

A Correct.

Q Okay.

A At times.

Q So you're all sitting there -- and are -- do you work in cubicles, open desks, how does it work?

A Wendy Teramoto had a seated desk. I had a standing desk. Izzy had a standing desk with a stool. James had a standing desk with a stool. Eric Branstad had a standing desk with a stool.

Q Are there walls? Are there partitions?

Are you all in an open space?

A I'm facing -- I was facing Wendy. Izzy, who was rarely there, but his desk was next to mine, facing Eric, and then James was on the end.

Q And there are no walls, correct?

A No walls.

Q No partitions?

A No partitions.

Q Okay. In all the time that you're sitting there and you're all working together, no one says, why does the Secretary want to add a citizenship question -- citizenship question?

A That's correct. Because, again, this was one of well over 100 different items we were working on. All of us were working on different things. I'm primarily tasked with policy. James is primarily tasked with press. And so you're dealing with all of these other issues. There's no reason to discuss it.

Q I'm not even talking about discussing it. No one mentioned? Did anyone mention it?

A Not that I recall.

Q No one says the reason the Secretary wants to add a citizenship question is whatever the reason is, no one ever said anything like that?

A No.

MR. GARDNER: Objection to form.

THE WITNESS: Not to my recollection.

BY MR. GERSCH:

Q Okay. Did you ever have a discussion with people from the Office of General Counsel at Commerce about why the Secretary wanted to add a citizenship question?

A No.

Q And in your time there, did you never see a document analyzing why it was a good idea for Census to add a citizenship question?

A Again, you're -- we have a fundamental disagreement on the premises of your question. Your premise is that somehow a reason needs to be provided. The question before us is the Secretary has the legal authority to add questions to the census. Is there a governmental need? And if

there is, then you're off to the races.

Q My question was a little different. My question was --

A I understand your question.

Q Sir, I'll repeat it for you.

My question is: In all the time you're there, did you never see a document spelling out the reasons why it would be a good idea to add a citizenship question? Why it would be good from Commerce's perspective?

MR. GARDNER: Objection. Form.

THE WITNESS: Again, that's not the question. Commerce --

BY MR. GERSCH:

Q Excuse me, sir. That is my question. Could you answer my question?

A Okay. No.

Q Not even a scrap of paper, right?

A Nope.

Q No memoranda, right?

A No.

Q No emails?

A Not that I recall.

Q And I just want to be straight on my understanding. I think I got you correctly, but I just want to make sure and test that I'm right.

It couldn't possibly assist you in your work, in any way, to know why the Secretary wanted to add a citizenship question? Do I understand that correctly?

A It's not relevant to my analysis.

Q And so it couldn't possibly help you in any way in your work?

A I'm not going to agree with your statement that way, no.

Q Well, that's my question -- withdrawn.

Well, is there any way in which knowing what the Secretary's reason was for wanting to add a citizenship question, is there any way that could assist you in your work at Department of Commerce?

A Assist me on my work at the Department of Commerce, no.

Q Is there any way that it could help you

help the Secretary add a citizenship question?

A If I had found it difficult or challenging, yes. Knowing more about why he wanted it would have been helpful, but I didn't say that there was an issue. It had been asked for hundreds of years, and it had been asked on the ACS. So, clearly, there's a need for it. And so, no, that was not a particularly troublesome aspect of the question I was being asked to look into.

Q When you said if I had found it difficult or challenging, what did you mean? What's the it?

A If -- if what I had been requested to do seemed to have significant legal obstacles to the ability to do that question or take that action, then I would probably inquire more fully to see if there's an alternative way to address what the Secretary is trying to get to. In this particular case, you have something that has been on the decennial census before that is currently being asked on the ACS. There's clear legal authority for him to add the question. So, frankly, the

reasons that he wants to add it doesn't add anything to the analysis. There is a governmental need for this information. That's a question that's already established, so I don't need to inquire further as to what his personal beliefs regarding this question might be.

Q What's the governmental need for the question?

A Enforcement to the Voting Rights Act, determining how many undocumented citizens there are. You name it, there's a whole bunch of reasons. That's why every government in the world collects this information.

Q Well, correct me if I'm wrong, we're talking about at a period in the spring of 2017 when the Voting Rights Act hadn't come up, the Department of Justice hadn't made a request for it. What does the Voting Rights Act got to do with it in the spring of 2017?

A When you inquire as to what does the Department of Justice use the citizenship data on --

Q That wasn't my question. My question is --

A I'm answering your --

Q -- why is it a good idea, why does the government need it back in the spring of 2017?

A Finished with your question?

Q That's my question.

A The answer is for the same reason they've been collecting it for the last 200-plus years.

Q What's the government need in the spring of 2017?

A I already answered that question. If they collect the data under the ACS for Voting Rights Act enforcement, that is one of the primary reasons they collect the data.

Q Okay. It's on the ACS. What's the need -- governmental need for it to be on the census?

MR. GARDNER: Objection. Asked and answered.

THE WITNESS: The governmental need is, again, if you're going to get more detailed

information, then you need that information.

BY MR. GERSCH:

Q Who said in the spring of 2017 that the government needed more detailed information?

A Again, I'm presented with a request by the Secretary to say, can we add this question to the census? I inquire about that, and I looked at it. One of the reasons you would need it is voting rights. If you're going to do voting allocations on the basis of census allocations, that's the reason it's perfectly sufficient.

Q Who said that in the spring of 2017?

A That was -- that was determined after taking a quick look at the issue. I don't need more than that to continue to pursue the question.

Q Who told you that the government needed, in the spring of 2017, more detailed information about citizenship than was contained in the ACS?

A Nobody.

Q You came to that decision on your own; is that right?

A Correct.

Q But you're not a voting rights lawyer, right?

A Irrelevant to the question.

Q That's not my question. You're not a voting rights lawyer, right?

A I've already said that.

Q So you decided on your own in the spring of 2017 that it would be a good idea for the government to have more information than was available from the ACS about citizenship to enforce the Voting Rights Act, even though you're not a voting rights lawyer?

A I don't agree with that characterization, at all. I decided that there was sufficient information for me to pursue the Secretary's request to consider placing a citizenship question on the decennial census and that there was sufficient potential reason to collect that information to warrant moving forward. If I'd come to an opposite conclusion that there was not sufficient potential reason or that there was some insurmountable legal bar, then I would have

reported back to the Secretary, I'm sorry, Mr. Secretary, it does not appear we can accomplish this objective.

Q Why did you need to come up with a reason for asking the question, separate and apart from whatever reason the Secretary had in his own head?

A Again, my job is to figure out how to carry out what my boss asks me to do. So you go forward and you find a legal rationale. Doesn't matter what his particular personal perspective is on it. It's not -- it's not going to be the basis on which a decision is made.

Q That's your understanding, that the way you should do it, is come up with a rationale that has nothing to do with what's in the Secretary's mind as to why he wants it; is that your understanding of how it's supposed to work?

A No. Again, you continue to characterize things in a way that you believe may be correct, but not the way I believe to be correct. My job, as a person who has been doing this for 30-plus years for clients and people in the government, is

if they would like to accomplish an objective, I see if there's a way to do that. And, again, if it's not legal, you tell them that. If it can't be done, you tell them that. If there's a way to do it, then you help them find the best rationale to do it. That's what a policy person does.

And so, again, if I came up with a rationale that the Secretary didn't agree with or didn't support, then he was going to tell me that. I have no doubt about that. But in the meantime, he doesn't -- I don't need to know what his rationale might be, because it may or may not be one that is -- that is something that's going to a legally-valid basis.

So, again, he's got -- he's asked, can we put -- can we put a question on? The job of a policy person is go out and find out how you do that. Whether that decision is going to be made ultimately to do it or not, that's up to the decision-maker.

Q Are you saying you're better off not knowing what the Secretary's own rationale is for

wanting the citizenship question?

A The Secretary, as you would point out, is not a voting rights lawyer, so I would not expect him to necessarily come up with a rationale. That's the job of the staff at work.

Q You certainly wouldn't expect the Secretary to have come up with the idea that the reason he should want the citizenship question is the Voting Rights Act; you wouldn't expect him to come up that on his own?

A I -- he might well. I don't know.

Q You have no reason to believe that he did, right?

MR. GARDNER: Objection. Calls for speculation.

THE WITNESS: I'm not going to speculate about what his rationale was. You'd have to --

BY MR. GERSCH:

Q Because --

A -- ask him.

Q -- because you have no idea what his rationale is?

A That's correct.

Q Counsel asked you about contact you made with the Department of Justice --

A Correct.

Q -- starting with a Ms. Haney [sic], I believe.

Do you recall that?

A Yes. I believe her name is Hankey, but --

Q Hankey. I apologize.

What was the full name? I can get it out if you don't know it offhand.

A Mary Blanche, but --

Q I'll find it in here.

A It's in one of these exhibits, the memo that I wrote. Here.

Q Mary Blanche --

A Yep.

Q -- Hankey; is that right?

A Yeah.

Q All right. So you went -- you called Mary Blanche Hankey --

A Correct.

Q -- with regard to adding a citizenship question to the census, right?

A Correct.

Q And you wanted to see if the Department of Justice would sponsor the question?

A Correct.

Q And you had a phone call with her, and you had at least a meeting with her, right?

A Right.

Q So at least two contacts?

A Three, when she called me back with somebody else's name.

Q Fair enough.

Didn't -- didn't Ms. Hankey say, why do you want to have a citizenship question?

A No, she didn't.

Q Didn't come up, at all?

A Nope.

Q She referred you to a Mr. McHenry; is that right?

A Correct.

Q And he's not a voting rights guy, right?
A I don't actually know what his background is.
Q Well, you went ahead, back and forth with him over about a month; is that right?
A I mean, we spoke on the phone probably three or four times, yeah.
Q Going from, I think, the period you mentioned was --
A Yeah. It was --
Q -- early May to early June, roughly?
A Approximately a month, yeah.
Q And didn't you learn in that time that he's not a voting rights guy?
A No.
Q Never came up?
A We didn't get into great detail on the rationale.
Q You did ask him would you sponsor a census question for -- I'm sorry. Withdrawn.
You did ask Mr. McHenry if he would be willing to sponsor a request for the addition of a

citizenship question on the census, right?

A I didn't ask Mr. McHenry if he would. I asked if the Department of Justice would be inclined to send a letter asking us to add the citizenship question.

Q Fair enough.

And when you did that, you didn't explain to Mr. McHenry why the Secretary wanted a citizenship question?

A I would have no reason to.

Q And Mr. McHenry never asked, hey, you want me to do this? Why do you need it? He never asked you that?

A I think I explained at the outset that the department currently got a report from the ACS on citizenship level -- I mean, on census -- certain census size, Citizen Voting Age Population, and if they were to get it from the decennial, that would allow them a greater granularity and would that be useful to them, and he said he would inquire.

Q You asked Mr. McHenry if the

Department of Justice would find it useful to have more granularity about citizenship?

A Correct.

Q But at no point did Mr. McHenry say, look, if we want it, we'll ask for it, but how come you want it? Didn't he ask you something like that?

A No.

Q When people call you and say, hey, will the Department of Commerce do this or do that, don't you say, why do you want that, why do you need that?

A I usually say is there a reason that you think the Department of Commerce would need that -- and if they have a reason, then I'll look into it. I don't say, hey, why does your boss want this? That's not part of lexicon.

Q No. No. If another agency calls and says --

A I don't --

Q Let me finish the question and you can answer any way you want.

both the workload I was under and the workload that they're under that I think is misinformed.

In fact, several of my calls with Mr. McHenry were made while I was driving into work, so there was no opportunity to call somebody and do that research.

And, besides, this wasn't about getting leverage on Mr. McHenry. This was simply to ask -- following up on the person I'd been directed to, who, based on the fact that it was recommended by an assistant to the AG, I'm assuming is going to at least be somewhat receptive. Probably an error on my part, but that's -- I've got a dozen other things I'm dealing with at the same time. So, no, I'm not going to spend a lot of time researching this guy.

BY MR. GERSCH:

Q You didn't spend any time researching this guy?

A Correct. I didn't.

Q Secretary Ross certainly knows why he wanted a citizenship question back in the spring

of 2017, right?

A You'd have to ask him.

Q Is there anyone besides Secretary Ross who we could go to who would have that information?

MR. GARDNER: Objection. Lack of foundation. Calls for speculation.

THE WITNESS: I'm not aware of anybody.

BY MR. GERSCH:

Q Do you have any reason to believe that Secretary Ross's rationale for wanting to add a citizenship question is some kind of supersecret?

A No.

Q Doesn't involve national security, right?

MR. GARDNER: Objection. Lack of foundation. Calls for speculation.

THE WITNESS: I don't know what the Secretary's rationale is. You'd have to ask him.

BY MR. GERSCH:

Q But you don't think it involves national security?

MR. GARDNER: Same objections.

Q Let me put a different question to you.
A Sure.
Q When Representative Norton asks you the why question, don't you think it's responsive to the why question that the Secretary of Commerce wanted to add a citizenship question independent of the Department of Justice's request?
A No. I don't think it's relevant. His decisional memo laid out very clearly the rationale that was the basis of his decision. Whatever his personal feelings may have been are irrelevant to that decision.
Q It laid out a rationale. We can agree on that, right?
A That's what he's required to do under the law, is lay out a rationale. That is the rationale for his decision and that's what he's standing on.
Q Okay. He laid out a rationale. Is it your understanding, under the law, that if the rationale is not his real reason for doing it, we should ignore the real reason, and we should only

focus on the pretextual reasons that he offers up?

MR. GARDNER: Objection. Calls for a legal conclusion.

THE WITNESS: The Secretary's decision memo lays out a valid reason that's consigned to his discretion under the law, and that is the rationale he provided to staff, and that is the rationale that we placed in the record. So that is his reason for having the question.

BY MR. GERSCH:

Q My question is a little different. If the Secretary's real rationale is something different than the rationale he lays out in his decisional memo, is it your understanding, under the law, that we're to ignore the real reason and only focus on what's in the decisional memorandum?

MR. GARDNER: Objection. Calls for a legal decision.

THE WITNESS: Your hypothetical is premised on the false conclusion that there is some illegal rationale that would be provided and be exposed and be referenced. There is none.

It's committed to his discretion to add a question, as long as you make it through the other things, Paperwork Production Act, et cetera. So it's -- I don't understand the basis for your question. But there's -- at the base of your question is this hypothetical that there's some supposed illegal reason that would be -- that would nullify a perfectly valid decision. I don't agree with that assessment.

BY MR. GERSCH:

Q Mr. Comstock, I want you to listen to my question carefully, because there was no reference to any illegal rationale, and I'm going to put it to you again and there will be no reference to an illegal rationale. And my only question -- and, by the way, I'm happy if you want to take this as a hypothetical.

My only question is: If the Secretary lays out a rationale in his decisional memorandum which is different than his real rationale, is it your understanding that we're supposed to ignore the real rationale and only focus on what's in the

decision memo?

MR. GARDNER: Given your introductory clause, objection. Calls for a hypothetical. Objection. Calls for a legal conclusion.

THE WITNESS: Again, a decision is valid if a valid reason has been spelled out, and that is what we did.

BY MR. GERSCH:

Q Could you answer my question?

A Again, I don't accept the premise of your question, which is that there's some other reason besides what was provided in the memo.

Q It's a hypothetical question, sir. The question is --

A I'm not going to answer a hypothetical on that basis.

Q I'm asking you to answer it, and you're here to answer questions, and I think I'm fairly following up on your testimony.

My question to you is real simple: If the Secretary lays out a rationale in his decisional memorandum and it's not his real

rationale, is it your understanding that what we're supposed to focus on is what's in the decisional memorandum and we're not supposed to look at the rationale?

MR. GARDNER: Objection. Calls for hypothetical. Objection. Calls for legal conclusion.

THE WITNESS: Again, we're at loggerheads here because you keep spelling out something that is -- that presupposes there is some other rationale that would be sufficient to outweigh a legitimate rationale and, therefore, must be noticed and taken care of. I mean, the government makes decisions all the time and spells out a rationale. Do some of decision-makers have, perhaps, other reasons, maybe, but it's not relevant to the legal analysis.

Q We shouldn't know what Secretary -- withdrawn.

We shouldn't know what the real rationale is; is that testimony?

A I --

MR. GARDNER: Objection. Calls for a legal conclusion.

THE WITNESS: Again, I have no reason to believe that the rationale is anything other than what's in the memo.

BY MR. GERSCH:

Q Well, sir, actually, you testified previously that the Secretary had a rationale for asking this question, which he didn't reveal to you and had nothing to do with the Department of Justice's request.

A I disagree with that statement.

Q Let's try this one other way. You don't disagree with the proposition that a decision-maker could have a rationale that is different than what he chooses to spell out in his decisional memorandum, right?

MR. GARDNER: Objection. Calls for hypothetical.

THE WITNESS: Again, I don't know -- I don't -- it's impossible to answer that question, because you -- I'm not sure where you're going

with it.
BY MR. GERSCH:
Q I'm not asking you to know where I'm going with it. I'm asking you to answer the question. I'll put it to you again.
You don't disagree with the proposition that it's possible for the decision-maker to have one rationale which he puts in the decisional memorandum and a completely different rationale which is the real reason he wants the decision done?
MR. GARDNER: Objection. Calls for a hypothetical.
THE WITNESS: Again, in the context we're dealing with, I don't agree with that statement.
BY MR. GERSCH:
Q It's not possible for that to happen, it's not possible for the decision-maker to put one rationale in the decisional memo and have a completely different rationale for why he wants the decision?
MR. GARDNER: Objection. Calls for a

hypothetical.

THE WITNESS: In my experience with the federal government service across 30 years, both Democrat and Republican, I'm not aware of decision-makers who would do such a thing.

BY MR. GERSCH:

Q This would never happen, in your view, right?

A I'm not going to use the word never. Clearly, in the course of human history, things like that do happen. That's not been my experience that it generally is the case.

Q That's fine. Put aside your experience. I'm just asking you conceptually, you don't have difficulty understanding that a decision-maker could say I'm doing this for one reason without revealing that he is actually doing it for a different reason. You understand that concept, right?

MR. GARDNER: Objection. Calls for a hypothetical.

THE WITNESS: Yeah. It's a hypothetical

to which the answer is always going to be yes. So to the extent that makes you happy, sure.

BY MR. GERSCH:

Q Okay. So you do understand that concept. So when that occurs, when it is the case that the decision-maker puts forth a stated rationale, which is, in fact, not his real rationale, is it your understanding that we should pay no attention to his real rationale and focus only on his stated rationale?

MR. GARDNER: Objection. Calls for hypothetical objection. Calls for a legal conclusion.

THE WITNESS: I'm not going to answer that question.

MR. GARDNER: Would now be a good time for a break? We've been going about an hour.

VIDEOGRAPHER: This concludes Media Unit Number 5. The time on the video is 3:11 p.m. We are off to record.

(Off the record.)

VIDEOGRAPHER: This begins Media Unit

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

vs. Case No. 1:18-CF-05025-JMF

UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,

Defendants.

Washington, D.C.
Tuesday, August 28, 2018

Deposition of:

KAREN DUNN KELLEY

called for oral examination by counsel for Plaintiffs, pursuant to notice, at the office of Arnold & Porter, 601 Massachusetts Avenue NW, Washington, D.C., before KAREN LYNN JORGENSON, RPR, CSR, CCR of Capital Reporting Company, beginning at 9:04 a.m., when were present on behalf of the respective parties:

Veritext Legal Solutions
Mid-Atlantic Region
1250 Eye Street NW - Suite 350
Washington, D.C. 20005

to Mr. -- I'm going to say Mr., but probably, more likely, Secretary Ross -- about the 2020 census, about any issue pertinent to the 2020 census?

A During that spring.

Q And what did he tell you about the 2020 census, specifically?

A That it was critically important. It was one of the most important things that the Department of Commerce was going to be undertaking and that it would be an important purview.

Q And he mentioned that one thing that was being discussed as early as the spring of 2017 was reinstating or adding a citizenship question to the 2020 census?

MR. GARDNER: Objection. Form.

I said objection, form. You still need to answer.

THE WITNESS: Can you repeat the question?

BY MR. GROSSI:

Q Yes. You knew as early as the spring of 2017, that one issue would be adding a citizenship

question or reinstating a citizenship question to the 2020 census?

A I don't recall exactly when I learned that fact.

Q It was surely before you were nominated in May, correct?

MR. GARDNER: Objection. Form.

THE WITNESS: I truly do not remember when I learned that.

BY MR. GROSSI:

Q It was before you appeared for your confirmation hearing in July, correct?

A I actually do not remember exactly when I learned that question. I was getting so many -- that issue -- I had so many facts and so much information that I was learning, that exactly when that was part of it, I do not know. I apologize.

Q I mean, it's certainly possible you heard it in the spring of 2017, right?

A I wouldn't deny it, and I wouldn't confirm it. It is possible. I would agree with

that.

Q You know from just thinking about the case that Secretary Ross was interested in the citizenship question as early as March or April of 2017, correct?

MR. GARDNER: Objection. Lack of foundation.

BY MR. GROSSI:

Q That's something you've heard from Secretary Ross or others?

A Yes.

Q Now, what I like to do --

A Can I -- can I -- can you repeat that question, please?

Q Well, you gave the answer.

My question was simply that you knew -- you know now, from all of your review --

A That was the question that I was answering. That yes, I do know now.

Q And you believe you learned it at the time, when you talked to Secretary Ross about the census?

MR. GARDNER: Objection. Mischaracterizing the witness's prior testimony.

BY MR. GROSSI:

Q Correct? It's a new question.

MR. GARDNER: I just said object -- you can still answer the question. I just lodged my objection for the record.

THE WITNESS: I -- I apologize. I don't mean to be difficult. I am getting very confused. You're going from present to past tense. I don't know where we are right now.

BY MR. GROSSI:

Q Okay.

A So let me be clear. I absolutely know those things now. I do not know when I learned that actual -- the citizenship question -- reinstatement of the citizenship question back in the spring or summer or whatever of 2017. I do not remember that.

Q And you know it now -- at least now, because you've talked to Secretary Ross about it subsequently, and he's let you know that he was

interested as early as the spring --

MR. GARDNER: Objection. Form.

BY MR. GROSSI:

Q -- of 2017?

A He or others.

Q He or others, or he and others?

A He or others.

Q Okay. Who are the others?

A I don't know. I do know, because it's been public and it's been in the press. I don't know that I've had the specific conversation with the Secretary about that.

Q Ever? See, what I'm looking for is conversations --

A Yeah. Tell me what you're looking for.

Q I'm looking for conversations you've had with Secretary Ross at any time in which he indicated in any way that he was interested in the citizenship question as early as the spring of 2017 and --

A And I don't remember. I don't remember. I do know in the spring of -- of '17, the GAO had

just as we asked Karen what I said, which was on the record.

Q Let me have marked the next exhibit.

(Plaintiffs' Exhibit 8, Email, was marked.)

BY MR. GROSSI:

Q We're marking as Exhibit 8 a memorandum -- I'm sorry -- an email. The top one of which is dated August 16, 2017.

Now, this email indicates that Mr. Earl Comstock wrote to Secretary Ross on August 11th and he stated, quote, per your request, here is a draft memo on the citizenship question that James Uthmeier in the Office of General Counsel prepared and I reviewed. Once you have had a chance to review, we should discuss so we can refine the memo to better address any issues.

And it appears that Ms. Teramoto then followed up on that by saying that Peter Davidson and Karen Dunn Kelley will both be here Monday. Let's spend 15 minutes together and sort this out.

And then Mr. Comstock responded to Ms. Teramoto and to Secretary Ross by copy saying, "Thanks, Wendy, that works for me."

Now, Wednesday was August 16th, and I'll represent that the Monday was August 20th. Is that consistent with your recollection that you came in on August 20th and had a discussion about various things?

MR. GARDNER: I think your math is wrong.

THE WITNESS: Sir, I think it was the 21st.

MR. GARDNER: The 21st.

THE WITNESS: August 21st. Or I said the wrong date before, as well, so we have to correct Monday -- Monday was the 21st.

BY MR. GROSSI:

Q You're right. Absolutely right.

So Monday was the 21st, and that's the day you came in and assumed your position, okay.

And so you discussed with them on August the 21st, among other things, I'm sure, the draft memo on the citizenship question that had

been prepared for Secretary Ross, correct?

A I do not recall any conversations like that.

Q Do you think that might have been the first time you really got into the details of adding it?

A I don't recall a conversation about it.

Q Okay. But you wouldn't deny that as of August 21st, you had been briefed on the citizenship issue?

MR. GARDNER: Objection. Mischaracterize the witness's testimony.

THE WITNESS: As I said, I do not, unfortunately, remember when I first learned about it. It is possible. I'm not denying it. I'm not confirming it. I just don't know. I wish I could -- I wish I could tell you. I just don't know.

BY MR. GROSSI:

Q Did you receive memoranda about the citizenship question, and that's a shorthand of, obviously, adding a citizenship question to the