

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS (Boston)

3 No. 1:25-cv-10685-WGY
4 Vol 1, Pages 1 to 84

5 AMERICAN ASSOCIATION of UNIVERSITY PROFESSORS, et al,
6 Plaintiffs

7 vs.

8
9 MARCO RUBIO, in his official capacity as
10 Secretary of State, et al,
11 Defendants

12 *****

13
14 For Bench Trial Before:
15 Judge William G. Young

16
17 United States District Court
18 District of Massachusetts (Boston.)
19 One Courthouse Way
20 Boston, Massachusetts 02210
21 Friday, July 18, 2025

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24 Official Court Reporter
25 United States District Court
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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

JOHN ARMSTRONG (Continued, via zoom.)

By Ms. Santora (via Zoom)

By Ms. Conlon 5

VEENA DUBAL

By Mr. Wang 67

By Mr. Kanellis

E X H I B I T S

(None marked.)

1 P R O C E E D I N G S

2 (Begins, 9:00 a.m.)

3 THE COURT: Good morning. Because I have made
4 these proceedings available on the internet, it's
5 appropriate to say that if you are accessing these
6 proceedings on the internet, be aware that the rules of
7 court remain in full force and effect, and that means
8 there is no taping, streaming, rebroadcast, screen
9 shots, or other transcription of these proceedings.

10 You must also keep your microphone muted at all
11 times. If you do not, we will have to cut you off
12 immediately.

13 Very well. The Clerk informs me we're ready to
14 go. I see Mr. Armstrong on the screen.

15 And, yes, I'll ask the Clerk to remind you, sir,
16 that you remain under oath.

17 THE CLERK: Sir, you remain under oath, do you
18 understand?

19 THE DEFENDANT: Yes, I understand that I remain
20 under oath.

21 THE COURT: And thank you.

22 And Ms. Conlon.

23 MS. CONLON: Thank you, your Honor.

24 THE COURT: You may examine.

25

1 CROSS-EXAMINATION BY MS. CONLON: (Continued.)

2 Q. Good morning, Mr. Armstrong. Can you hear me?

3 A. Good morning. I can hear you.

4 Q. Okay. You're in D.C. right now?

5 A. That is correct, I am in my office at 619th
6 Street, Northwest.

7 Q. And can you just tell us who is in the room with
8 you other than Ms. Santora?

9 A. We have two lawyers from the State Department,
10 Sarah Tulkowski and, um, Taylor Beaumont.

11 Q. All right. Okay. Thank you.

12 Now, um, you testified that you would be very
13 surprised if a policy related to Visas exists that you
14 don't know about, is that correct?

15 A. I can't see how that could be the case. That the
16 head -- at least for the time being, the Head of the
17 Bureau of Consular Affairs, which at the State
18 Department is the, um, part of the State Department that
19 is responsible for Visas and issuing Visas abroad. So,
20 yes, I would be extremely surprised. I do not see how
21 this could happen.

22 Q. Now I want to talk about what "policy" means in
23 the context of your work.

24 State has a policy-making process, right?

25 A. Yes, they're a policy-making process in the U.S.

1 government and the State Department also does that.

2 Q. Before a policy is finalized, a few things have to
3 happen, right?

4 A. Yes, usually -- yes, that is correct.

5 Q. An action memo, with a proposed policy, must be
6 cleared by all offices who have any equities in it,
7 correct?

8 A. Yes, I think that is correct.

9 Q. A policy could require clearance from as many as
10 20 different offices, right?

11 A. Um, even more actually. I have seen some memos,
12 although they weren't necessarily a policy memo, that
13 had over 60 clearances.

14 Q. In once an action memo with a policy has been
15 cleared by all relevant offices, it then has to go to
16 Secretary Rubio, right?

17 A. It depends.

18 Q. If it's a policy that the Secretary needs to sign
19 off on, he has to sign off on it before it's final,
20 right?

21 A. That is true. But there are also -- I have the
22 ability to sign off on policies too, to approve policies
23 for the Bureau of Consular Affairs, after the necessary
24 clearance process.

25 Q. Once a policy has been cleared, signed off on by

1 whoever the senior-most official is that has to sign off
2 on it, then it can be publicly announced, correct?

3 A. Well not all policies are publicly announced,
4 sometimes they're classified or they're sensitive but
5 unclassified. But they would certainly be announced to
6 those people who need to deal with them. In the case of
7 Consular Affairs, most of our things are, um, but not
8 all are unclassified.

9 Q. In other words, whoever needs to know could then
10 be told about it?

11 A. Yes, that is correct, on a need-to-know basis,
12 it's a good rule for OF-SAC.

13 Q. Now once a policy had been finalized and those who
14 need to be made aware of it are made aware of it,
15 guidance about that policy can be conveyed to folks who
16 work in the State Department who have to implement it,
17 right?

18 A. That's correct. And usually guidance in that form
19 is especially for policies that affect these operations
20 abroad, and it would go out then in the form of a, um,
21 cable or telegram, and I believe we discussed these
22 previously. And usually in the form of an All-Back, to
23 all diplomatic and Consular posts.

24 Q. A cable --

25 A. And oftentimes at --

1 Q. Sorry. I didn't mean to interrupt you, sir.

2 A. No, I interrupted you. Please go ahead. Unless
3 you'd like me to finish.

4 Q. I'll move on.

5 Other than a cable, sent "All-Back" as you say,
6 another way that guidance can be conveyed to State
7 employees is by making additions or revisions to the
8 Foreign Affairs Manual, correct?

9 A. Yes, that is absolutely true, and the cables often
10 -- or the All-Backs often announce this guidance and
11 refer to the changes in the Foreign Affairs Manual.
12 That makes sure that everybody knows that this has
13 happened. Because otherwise you could change the
14 Foreign Affairs Manual and there could be a new or a
15 modified policy and no one would know about it.

16 Q. Now in your view, a decision by the Secretary on
17 an action memo is not, in and of itself, guidance,
18 correct?

19 A. No -- well it depends what's part of the action
20 memo. Sometimes you have the FAM revisions, the Foreign
21 Affairs Manual revisions, are also included and are part
22 of the action memo. There can be more than one decision
23 made in the action memo, or --

24 Q. I'm sorry. In an action memo --

25 A. -- or it's just --

1 Q. It's so hard to do this where you can't see me.

2 A. No, I apologize.

3 Q. No, it's okay, we'll figure this out together.

4 In an action memo on a decision, something other
5 than an update to the FAM, a decision, that is an
6 action, that's, in your view, is only an action, that is
7 not a policy, correct?

8 MS. SANTORA: Objection.

9 THE COURT: Well I'm not really clear as to the
10 relevance of this.

11 MS. CONLON: I can, your Honor --

12 THE COURT: In these charts I've been given,
13 Mr. Armstrong, there's relevant -- well not relevant,
14 there's mention of something that is called an "action
15 letter." So, um, I'll ask this question and I'll make
16 reference to our case specifically.

17 In our case you've testified, and I assume she's
18 going to cross-examine you at some stage, on, um,
19 communications you had with the Secretary, and then, um,
20 the Secretary of State, um, came up, in the relevant
21 individuals in our case, with something in it on those
22 chalks, these guidances I have, called an "action
23 letter."

24 Now when you get an "action letter," I understand
25 that to be a -- a direction for action. It's not the

1 policy, it's the implementation of procedures, um,
2 within the Department.

3 Am I correct?

4 THE WITNESS: Sir, no disrespect intended, your
5 Honor, but could I see the chalk?

6 THE COURT: Sure.

7 THE WITNESS: Do we have a copy?

8 THE COURT: Ms. Santora may have one.

9 MS. SANTORA: Yes, your Honor, I can find one, if
10 you give me one second.

11 THE COURT: Yes.

12 MS. CONLON: We're talking about H -- well it was
13 HN. I thinks it's still HN.

14 THE COURT: Yes.

15 MS. CONLON: But we can backtrack in particular.

16 THE COURT: Correct. Yes.

17 (Silence.)

18 THE WITNESS: I apologize for needing to refresh
19 my memory.

20 THE COURT: No, I understand. But it's those that
21 I'll ask Ms. Conlon, so you can hear --

22 MS. CONLON: Yes.

23 THE COURT: -- It's those action letters that
24 you're talking about?

25 MS. CONLON: That's correct, your Honor.

1 THE COURT: All right, then we're clear. That's
2 what she wants to ask about.

3 MS. SANTORA: Okay. I can share a copy of the
4 document that I had on the screen. Just give me one
5 second.

6 THE COURT: That's fine.

7 MS. CONLON: And, Ms. Santora, we have copies
8 here, so I think it's just Mr. Armstrong who needs to be
9 able to see it.

10 MS. SANTORA: Okay, then I'll just share a copy
11 with him on my screen, um, to save time.

12 THE COURT: Exactly.

13 THE WITNESS: Could you just make it larger? My
14 eyesight has gotten worse with time.

15 MS. SANTORA: Sure.

16 (Enlarged.)

17 THE WITNESS: Yes, thank you.

18 All right. Consular Affairs. "Action memo goes
19 to Secretary of State." (Looks.) "There will no action
20 of foreign policy." (Looks.)

21 Oh, I understand the CALC -- the action letter is
22 what goes back to the Department of Homeland Security
23 informing them of the action taken and letting them know
24 that the --

25 THE COURT: So -- and I'm interrupting, so do I.

1 So that's what we're talking about, that's what her next
2 question is going to deal with, I take it.

3 Go ahead, Ms. Conlon.

4 Q. Well now I think just to make sure we're all clear
5 in using words in the same way, there are action memos
6 that are sent to you, or to Secretary Rubio, and from
7 those there may be action letters that are sent from
8 State to Homeland Security, is that correct?

9 A. That's my understanding, reviewing this, and based
10 on my knowledge of my job, and that informs the, um,
11 whatever person at the Department of Homeland Security
12 who gets it. Of course if it's Secretary Rubio, it goes
13 to Secretary Noem. If it's someone else like me writing
14 back, then it would go to the person who sent it. And
15 that is closing the loop then because the referral on
16 this CALC is what started the whole process.

17 Q. So my question is about -- is twofold, I suppose,
18 action memos that go to you, or the Secretary, decisions
19 that are made on those. You've said before, and I just
20 want to make sure I understood it, that that's just a
21 decision, an action, that is not the creation of policy,
22 in your view, correct?

23 A. I think that is accurate. A single decision does
24 not a policy make in most cases. Of course it can
25 depend on the situation. I'm sure we could find a

1 hypothetical where it might. But I get action memos all
2 the time, to send this cable, do that, um, agree to this
3 meeting or conference, and that is not a policy.

4 Q. And an action letter sent by State to the
5 Department of Homeland Security, that is an example of
6 implementation of a policy, but that in and of itself is
7 not the creation of policy, right?

8 MS. SANTORA: Objection.

9 THE COURT: No, he may be asked the question.
10 Overruled.

11 THE WITNESS: Thank you, your Honor.

12 A. The action letter informs of the decision. For
13 example, on the CALC, the Secretary would make a
14 decision on the action memo in the case of an alien.
15 For example, a 4(c) finding, I'm referring to INA
16 237(a)(4)(c). And then that action letter informs the
17 Department of Homeland Security. So to be informing of
18 a decision, not necessarily a policy.

19 Q. Got it. Now we can move on from this. I think I
20 understand what you mean when you say "policy." I want
21 to turn to guidance you've received, um, relating to
22 revocations of Visas.

23 So you've discussed revocations of Visas from
24 student protesters with senior officials inside and
25 outside of State, right?

1 A. Yes, I've discussed revocation of student Visas
2 with senior officials both inside the State Department
3 and outside the State Department.

4 Q. That's inclusive of senior officials at Homeland
5 Security, right?

6 A. Yes.

7 Q. Senior officials at the White House, correct?

8 A. Yes.

9 Q. In the first few months of your job, you spoke
10 with folks in the White House about the revocation of
11 student Visas at least 20 times, right?

12 MS. SANTORA: Objection. This calls for
13 information that's privileged.

14 THE COURT: What privilege?

15 MS. SANTORA: It would be Presidential
16 communications, your Honor.

17 THE COURT: All right, I, um --

18 MS. CONLON: No, no, the question only asked,
19 Judge, did he speak with anyone in the White House?
20 There's no indication that it was something that went to
21 the President. And also he testified about it in his
22 deposition. So if they want to do a search-out
23 privilege, then it's waived.

24 THE COURT: Well then go through the deposition.

25 MS. CONLON: Sure.

1 Q. Turning your attention to the deposition
2 transcript from June 12th, 2025, Page 203 to 204,
3 starting at Line 4. You were asked this question.

4 "Do you have the occasion to speak with anyone in
5 the White House about the revocation of student Visas?"
6 Line 7, you gave the answer, "I have had such an
7 occasion." And continuing on down the page, "You were
8 clarifying the occasions you had to do that," starting
9 at Line 17, and you said, "So the number of total
10 conversations wee probably more, more than over 20. I
11 would say at least a dozen occasions."

12 I could keep going, but that was your testimony,
13 right?

14 A. Um, that -- excuse me, Counselor, but I'm still
15 looking it up here.

16 Q. Sure.

17 A. What was the page? 220 was the page number?

18 Q. No, sir, Page 203.

19 A. Thank you.

20 Q. And I first read to you from Lines 4 through 7.

21 A. (Looks.)

22 MS. CONLON: Your Honor, this might be more
23 efficient if we could just put it on the screen for
24 Mr. Armstrong so we can draw his attention to the
25 portion we're using.

1 THE COURT: Fine. As you seek to --

2 (Pause.)

3 MS. CONLON: No, never mind, your Honor, I'm told
4 it's not more efficient.

5 Q. Okay. So, Mr. Armstrong, you've had a chance to
6 look at Page 203. You gave that testimony in your
7 deposition, I read that correctly, right?

8 A. I believe you read it correctly, um, based on -- I
9 didn't compare it word for word, but I -- and I think it
10 is accurate, but somewhere between a dozen and over 20.

11 Q. And those conversations included Steven Miller,
12 correct?

13 A. Yes.

14 Q. Those conversations also included his Deputy, Adam
15 Leason, right?

16 A. Yes.

17 Q. Now most --

18 A. But not as many with Mr. Leason.

19 Q. More with Mr. Miller.

20 Now most of the conversations about the revocation
21 of student Visas that you had with Mr. Miller took place
22 in March of this year, correct?

23 A. It seems to be, yes, but I didn't keep an exact
24 tally at the time. But it seems in March.

25 Q. And some of those conversations with Mr. Miller

1 were interagency, that is between you and folks of other
2 relevant agencies were part of those discussions, right?

3 A. Yes.

4 Q. Interagency --

5 A. They were telephonic. I have never met Mr. Miller
6 in person to this day.

7 Q. Interagency, in the context of these discussions
8 about student Visa revocations, included folks from
9 Homeland Security, the State Department, the Department
10 of Defense, and the White House, correct?

11 MS. SANTORA: Objection. Your Honor, this is
12 bearing into Presidential communications, I believe,
13 he --

14 THE COURT: Here, um, here's the line I'm walking,
15 Ms. Santora.

16 If it's in the deposition, it's waived. If she's
17 gone beyond the deposition, and I don't have the
18 deposition before me, but I'm following carefully, then
19 I think your assertion must be sustained.

20 So I take it your position is that the question
21 she just asked goes beyond what was set forth in the
22 deposition. Is that your representation? And I'm being
23 handed a copy of the deposition here.

24 MS. CONLON: And, your Honor, I'm looking at Page
25 207 of the deposition.

1 THE COURT: Fine.

2 But, Ms. Santora, talking to you, is it your
3 position it goes beyond what's set forth in the
4 deposition?

5 MS. SANTORA: Yes, I believe that question did go
6 beyond what was set forth in the deposition.

7 THE COURT: Well then she'll be more specific in
8 the deposition. I'm looking at Page 207.

9 MS. CONLON: And I'm looking at, um, Lines 12
10 through 24, in particular the question that begins at
11 Line 16. Which I can read if it's helpful to anybody.

12 THE COURT: Well you know to save time, um, let me
13 propose this, to save time, Ms. Santora, and Ms. Conlon.

14 I'm going to honor her, um, claim of Executive
15 Privilege in the course of your oral cross-examination
16 of Mr. Armstrong. At the same time what's revealed in
17 the deposition, um, in absence of his oral testimony,
18 which I'm sustaining, is waived and is before the Court
19 and I can read. So all you need to do, again to save
20 time, is to say, "We want in Pages X, Lines whatever,"
21 and we don't need to question him about it.

22 MS. CONLON: Okay.

23 THE COURT: If you're on this vein of talking to
24 people, even by telephone, at the White House.

25 So with that guidance, um --

1 MS. CONLON: Yes, that makes sense.

2 THE COURT: -- proceed, Ms. Conlon.

3 MS. CONLON: Okay. So, your Honor, we will submit
4 a designation after this cross-examination.

5 THE COURT: That's fine. Proceed then.

6 MS. CONLON: Okay.

7 (Pause.)

8 Q. Now, um, I'd like to turn to -- we're going to
9 move away -- well one other question.

10 You attended meetings of the Homeland Security
11 Council, correct?

12 A. No, I did not attend meetings of the Homeland
13 Security Council in person, I took part in telephonic
14 discussions with people who were on the Homeland
15 Security Council.

16 Q. Okay.

17 A. I'm not of that rank to go to the Homeland
18 Security Council.

19 Q. Well they invited you to speak. We can leave it
20 there.

21 A. In telephone conversations with members of the
22 Homeland Security Council, yes.

23 Q. And those conversations concerned student Visa
24 revocations, is that fair?

25 A. They concerned many issues, but student Visa

1 revocations were also discussed, as were general Visa
2 revocations.

3 MS. CONLON: Okay, so I will rely on the
4 deposition for the remainder of what I'm questioning him
5 on.

6 Q. Okay. So some of the determinations that we are
7 going to talk about today involve U.S. foreign policy,
8 so I want to understand what you mean when you're
9 talking about U.S. foreign policy in these decisions
10 that you wrote.

11 It's your understanding that it is the foreign
12 policy of the U.S. to combat antisemitism at home and
13 abroad, is that right?

14 A. Yes, it is my understanding that is the policy of
15 the United States, and actually President Trump's
16 Executive Order in a way codified long-term policy. The
17 United States, at least in my tenure of over 30 years,
18 has always been opposed to antisemitism both in the
19 wider world and in our great country.

20 Q. And when you say the "Executive order," that is
21 14188, right?

22 A. I don't know the number offhand. I believe there
23 was only one that dealt with antisemitism. I can try
24 and look it up, if you'd like, ma'am.

25 Q. No, I think that we can assume it's what you mean

1 here for our purposes.

2 Now your understanding about the long-time U.S.
3 policy combating antisemitism is also drawn from public
4 statements made by Secretary Rubio, right?

5 A. Yes, Secretary Rubio has gone on record, it is my
6 recollection, to be strongly against antisemitism, both
7 domestically and, um, even more importantly, in the
8 world.

9 Q. Now --

10 A. I personally am also against antisemitism, just
11 for the record, and I have no embarrassment in stating
12 that.

13 Q. Nor should you.

14 Now Secretary Rubio has made many public
15 statements about antisemitism, correct?

16 A. It's my --

17 MS. SANTORA: Objection.

18 THE COURT: Well that's pretty vague and it's a
19 matter of record. Sustained.

20 Go ahead.

21 Q. With respect to Secretary Rubio's position on
22 pro-Palestinian student protests, your understanding is
23 he's against foreign aliens organizing antisemitic
24 activity in the U.S., is that right?

25 A. It's my understanding that he's against anyone

1 organizing antisemitic activity in the United States.
2 He -- and again, my understanding is he has no power
3 against you, American citizens, doing such things. He
4 does have power, under the law, as has every Secretary
5 of State, against aliens who could do such things.

6 Q. Aliens organizing antisemitic protests in his
7 view, is that right?

8 MS. SANTORA: Objection, lack of foundation.

9 THE COURT: Sustained. It's sustained. This
10 witness can't state his view.

11 MS. CONLON: Well, your Honor, I'm actually
12 interested in this witness's understanding of his boss's
13 --

14 THE COURT: Well you didn't in that question.

15 MS. CONLON: Yes, I'll clarify.

16 Q. So, Mr. Armstrong, to be clear, I'm not asking you
17 to read Mr. Rubio's mind, but I want to focus on your
18 understanding of the State Department's position based
19 on Secretary Rubio's public statements.

20 Now it's your understanding that Secretary Rubio
21 has expressed that the State Department has a policy of
22 opposing antisemitic protests on U.S. college campuses,
23 correct?

24 A. It's my understanding that Secretary Rubio has
25 stated he opposes antisemitism both at home and abroad,

1 so that would include public campuses, that would
2 include everywhere in the United States, and in the
3 whole world.

4 Q. You have reviewed some of Secretary Rubio's public
5 statements in the course of your work, correct?

6 A. Yes.

7 Q. You have cleared written guidance for State
8 Department employees that actually quotes from Secretary
9 Rubio's public statements, right?

10 A. It's my recollection that I cleared some cables
11 that quoted from the Secretary. And there may have been
12 other documents, but there were a couple of cables in
13 particular that had stuck in my mind.

14 Q. Okay. And some of those --

15 A. And why? I do not know.

16 Q. Some of those cables in particular related to
17 Visas and Visa revocations, right?

18 A. I believe so, yes, that is my recollection.

19 Q. You said, when we started this line of
20 questioning, that EO 14188 codifies a longstanding U.S.
21 policy against antisemitism. And do I understand you
22 correctly to be saying, in other words this policy
23 existed, but it was first written or memorialized or
24 codified in that Executive Order. Is that what you
25 meant?

1 A. What I meant was that I used -- I said "In a
2 manner, I believe, codified it," because of course it's
3 not a legal code, it's an Executive Order. It's not the
4 same as if Congress had passed it. But, um, in my
5 career, in the over 30 years that I've served the
6 American people as a Foreign Service Officer at the
7 State Department, both at home and abroad, we have come
8 out repeatedly, various Secretaries of States, various
9 State Department officials, against antisemitism. The
10 U.S. government has done that too. And this is the
11 first Executive Order that I recall, um, where it was
12 said that "We are against antisemitism." So in that
13 sense it memorialized, formalized, whatever way we want
14 to describe this, took this policy to the next concrete
15 level. It was always there, um, since Day 1 of my
16 Foreign Service career.

17 Q. Now you've talked about antisemitism just now in
18 that order, but I want to talk about your understanding
19 of it.

20 You have had to review referrals from HSI
21 concerning alleged antisemitic activity in the past few
22 months, right?

23 A. Um, from DHS, but I don't remember what office in
24 DHS.

25 Q. Those referrals were part of the implementation of

1 Executive Order 14188, right?

2 A. That's an interesting question. Yes, I think they
3 could be seen as an implementation. Certainly we
4 reviewed a number of cases, actually several thousands
5 of students, um, for various things.

6 Q. So just to bring you up to my question. The
7 referrals you got from the Department of Homeland
8 Security concerning alleged antisemitic expression and
9 activity, that was pursuant to or the implementation of
10 EO 14188, correct?

11 A. I think it was also the implementation of our
12 longstanding policy of being against antisemitism. It
13 is not a new policy. Again, it was brought to a higher
14 level. But we've always been against antisemitism.

15 Q. Isn't it true that people in the State Department
16 were asked to review activities of students for
17 antisemitism pursuant to the Executive Order 14188?

18 A. We were asked to review their activities. I don't
19 remember whether the Executive Order was cited in the
20 request. But we were asked to review their activities
21 on antisemitism, and on other things too, on criminal
22 activity, like the 800 students who, um, had assault
23 charges.

24 Q. To your knowledge the State Department has not
25 issued any guidance about what should be treated as

1 antisemitic, correct?

2 MS. SANTORA: Objection.

3 THE COURT: Overruled.

4 A. I cannot remember a concrete piece of guidance.
5 It, um, seems to me there may have been -- been some.
6 But I do not remember a concrete cable where I can say
7 "This cable defines antisemitism."

8 Q. I'll ask you again.

9 You haven't received any guidance from anyone on
10 what the State Department should treat as being
11 antisemitic, yes or no?

12 MS. SANTORA: Objection.

13 THE COURT: Yeah, sustained. I think he's
14 answered that.

15 MS. CONLON: Your Honor, I believe he just said he
16 can't recall, and maybe not in a cable, and then --

17 THE COURT: I understand. I understand. The
18 transcript will speak for itself. But the effort is to
19 persuade me. And here's what I hear. Anyone can -- and
20 he can correct it.

21 I hear him say there's been no guidance, formal or
22 informal, as to what should be treated as antisemitism.
23 I think that's the point.

24 MS. CONLON: It is.

25 Q. And fair to say you don't know whether your

1 subordinates in the Visa office, who write the action
2 memos that you review, have received training on how to
3 determine what activity is antisemitic?

4 MS. SANTORA: Objection.

5 THE COURT: No, overruled.

6 A. I do not -- I do not know all what training they
7 have. To my knowledge I do not know of any of them
8 having received formalized training on what is
9 antisemitism.

10 Q. When employees in the Visa office are making these
11 assessments that come to you in writing, you don't know
12 where there's any written materials they review or refer
13 to, correct?

14 A. Could you clarify, what kind of materials? You
15 mean instruction materials? Or are they looking at the
16 evidence that a person has engaged in antisemitic
17 activity or has supported a terrorist organization?

18 Q. Materials about how to make that assessment.

19 A. The assessment of antisemitism or not?

20 Q. Yes.

21 A. I do not know of any such materials.

22 Q. You don't know what definition or standard the
23 Visa office uses to determine whether speech or conduct
24 is antisemitic, right?

25 MS. SANTORA: Objection.

1 THE COURT: Overruled.

2 A. I do not know of any materials. I do know that
3 there's a common understanding in our culture in our
4 society of what antisemitism is. It's just --

5 THE COURT: And -- thank you. I'd like to now
6 ask, would you state that, so I understand it? What do
7 you think is the common understanding of what
8 "antisemitism" is?

9 THE WITNESS: In my opinion, antisemitism is
10 unjustified views, biases, or prejudices, or actions
11 against Jewish people, or Israel, that are the result of
12 hatred towards them.

13 THE COURT: Thank you.

14 Q. In other words, in your understanding antisemitism
15 includes hatred or prejudice against Israel and the
16 Israeli people, right?

17 A. Yes. In my understanding antisemites will
18 sometimes try to hide their views and say they're not
19 against Jews, they're just against Israel, which is a
20 farcical argument in my mind. It's just a dodge.

21 Q. It's a dodge. It's a way of obscuring a person's
22 antisemitic views?

23 A. In my opinion, yes, Counselor.

24 Q. Now there are some cables that you cleared this
25 past few months concerning, um, the espousal or

1 endorsement or support of terrorism and antisemitism,
2 right?

3 A. There may have been. I believe so. I don't
4 remember all the cables I cleared. But I believe that I
5 did clear some, yes. And actually probably approved
6 them.

7 Q. Not only cleared, but also approved, as in the
8 final approver, right?

9 A. Yes, that is correct.

10 Q. Okay. Now once such cable, which I will draw
11 everybody's attention to, it's Exhibit 64 in evidence.
12 It's a cable from March of this year. And I just want
13 to ask about your understanding of a part of that as it
14 relates to endorsing, espousing, supporting terrorism,
15 and antisemitism.

16 MS. CONLON: And tell me if you need a second to
17 pull it up, Ms. Santora.

18 A. I am pulling it up. Wait. Wait. Now, sorry, I
19 have to use my mouse. (Pause.) This is, um, an "Action
20 Request Enhanced Screen and Social Media Vetting for
21 Visa Applicants," yes?

22 Q. Yes.

23 A. Exhibit 64.

24 Q. Exactly. And so if you go to Paragraph 9 of this
25 document.

1 A. (Turns.) I'm at Paragraph 9.

2 Q. Excellent. I'd like to draw your attention to the
3 bottom few sentences, because I'll be asking you about
4 them.

5 A. Okay.

6 Q. So this paragraph of this March cable that, um,
7 for clarity, did you approve or just clear this one, can
8 you tell?

9 A. I have to look at the bottom. (Looks.)

10 Q. Can you go ahead and do that, please.

11 A. (Looks.) I believe I approved this one.

12 Q. Okay. So turning to --

13 A. Also I can tell by looking at the tags, it's see
14 "See this," and "See management," "Counselor viewed
15 this," "Counselor management."

16 Q. So looking at Paragraph 9, the bottom few
17 sentences, this portion of the cable concerns the
18 understanding of 3(b), which is one of the grounds for
19 potential ineligibility, on the basis of supporting
20 terrorism, correct?

21 A. Yes, 3(b) is support for terrorism, a terrorist
22 activity, or a terrorist organization.

23 Q. Now this cable provides guidance on how to
24 determine whether a person, um, endorses or espouses or
25 supports terrorism, right?

1 A. This part talks about that, yes. I'd have to flip
2 back up to see what the title is.

3 Q. And some indicators, according to the cable, said
4 a person may endorse, espouse, or support a terrorist
5 organization, include evidence that an applicant added a
6 case for terrorist activity, correct?

7 A. Can I read the lines, Counselor?

8 Q. Oh, sure, and I'm actually not quoting, but go
9 ahead.

10 A. Okay.

11 Q. The last few sentences.

12 A. Okay. (Reads.)

13 Q. Okay. So I'm going to ask you.

14 It's fair to say this cable here has, um,
15 understandings of how a person may reflect that they
16 endorsed or espoused or support a terrorist
17 organization, um, which could include bearing a
18 hostility towards U.S. citizens or U.S. culture, among
19 other things, right?

20 A. Yes, it does note that as a possible indicator.

21 Q. Potential sympathy for a foreign terrorist
22 organization, right?

23 A. (Looks.) Yes, as a possible indicator. This
24 requires judgment and it's not an easy task.

25 Q. Okay. Now if we can set this cable aside for a

1 moment, but I want to stick with the discussion of 3(b),
2 um, so you can put that aside.

3 The State Department has, as I understood you to
4 say on direct, a policy of revoking Visas based on a
5 person's support for a terrorist organization, if that
6 is their viewpoint, correct?

7 A. Support --

8 MS. SANTORA: Objection.

9 THE COURT: No, she may ask the question.
10 Overruled. He may answer.

11 A. Support for a terrorist organization, or terrorist
12 activity, is a reason to have a Visa revoked, yes.

13 Q. And on direct you were asked the question, does
14 State have a policy to revoke Visas based on political
15 viewpoints? And in responding to a question about
16 political viewpoints, you said, "If you're supporting a
17 terrorist organization, yes." That's correct, right,
18 that's what you said?

19 A. Yeah, support for Hamas will get your Visa
20 revoked.

21 Q. Now I want to --

22 A. No, I'd like to finish my answer, because it
23 doesn't seem that the full complexity of what we deal
24 with is being carried out.

25 THE COURT: You may -- you may, sir. Go ahead.

1 THE WITNESS: Thank you, your Honor.

2 A. This is not a mundane thing. If we get this
3 wrong, we get the Molotov cocktail attack in Colorado.
4 If we get these sort of things wrong, you get the Boston
5 Bomber. If we get this stuff wrong, you get 9/11.

6 MS. CONLON: Your Honor, I'm going to ask that you
7 --

8 A. This is very serious stuff, Counselor, and I don't
9 think you realize --

10 THE COURT: Wait. Wait a minute. Wait. Wait.
11 I've said you could amplify your answer. You've gone on
12 to characterize the question.

13 THE WITNESS: I apologize.

14 THE COURT: We're not doing that. I fully accept,
15 sir, that you take this very seriously. She's trying to
16 flesh out what's meant by the phrase "Support Hamas."
17 That is important to this Court, an understanding of
18 that. And I'm going to allow her to ask questions along
19 that line. That's what I need to get out of this. What
20 does it mean to support Hamas?

21 As far as I can see, in this case, there is no
22 dispute, and I don't see how there could be, that Hamas
23 a terrorist organization. That said, she's trying to
24 pin down what that means.

25 Go ahead, Ms. Conlon.

1 MS. CONLON: Thank you, your Honor.

2 Q. Now in your view, the phrase, "From the river to
3 the sea, Palestine will be free," could be covered by
4 the endorsing, espousing, supporting, a terrorist
5 organization provision, correct?

6 A. It's basically calling for genocide of all
7 Israelis, because there's no space for Israelis in that
8 "river to the sea."

9 Q. In your view, a statement denouncing Zionism could
10 be covered because Zionism is Jewish patriotism or
11 Israeli patriotism, correct?

12 A. It could be, yes.

13 Q. In your view, a statement criticizing Israel's
14 actions in Gaza could be covered, depending on the
15 statement, right?

16 A. Yes, depending on the statement. It could
17 definitely. If you say that "They're worse than Hitler
18 in what they're doing in Gaza," that would be a
19 statement that I think would be leading in that
20 direction that you seem to go going, Counselor.

21 Q. In other words, a statement comparing the policy
22 of Israel to that of the Nazis?

23 A. I'm saying it's worst than the Nazis.

24 Q. A statement calling for an arms embargo on Israel
25 could be covered, correct?

1 A. It could be.

2 MS. SANTORA: Objection.

3 THE COURT: Wait. Wait. The objection is noted,
4 but overruled. She may follow this line of questioning.

5 Q. A statement calling for limiting military aid to
6 Israel could be covered, correct?

7 A. In my opinion, yes.

8 Q. A statement --

9 A. You'd have to look at the totality of the
10 situation and the whole thing that's being said. Just
11 one statement by itself is probably not going to make
12 the decision.

13 Q. A statement calling Israel an "apartheid state"
14 could probably be covered?

15 A. It might be. We'd have to look at the totality of
16 the case. Which is what we do in the Visa revocations.

17 Q. Now you said a second ago, "Well that's just your
18 opinion." But, Mr. Armstrong, you are the senior bureau
19 official in Consular Affairs, right?

20 A. I am the senior --

21 THE COURT: Wait a minute. You may answer.

22 A. I am the senior bureau official at the present
23 time in the Bureau of Consular Affairs at the State
24 Department. I've been in the position since February
25 27th of this year and continue to be in it.

1 Q. And when you receive action memos about particular
2 persons alleging that they have expressed support for
3 terrorism, what we're talking about here, these
4 understandings inform your decision-making, right?

5 A. Yes, my understanding does inform my
6 decision-making, as does any other guidance that I have.
7 And I actually discuss my decisions, if I have
8 questions, with the people who sent the memos to me to
9 make them.

10 Q. In the cable we looked at a moment ago, there was
11 a reference to a person's hostile attitude toward U.S.
12 citizens, government, and culture, as potential
13 indicators that they support or sympathize with
14 terrorist organizations. And I want to understand your
15 view of that as well.

16 In your view, criticism of this administration's
17 policies or actions toward Israel could be covered by
18 this provision, right?

19 MS. SANTORA: Objection.

20 THE COURT: Well this deals with Visa applications
21 and so I'm going to sustain that.

22 (Pause.)

23 MS. CONLON: Just a moment, your Honor.

24 (Pause.)

25 Q. The Court made the point that I'm asking you about

1 3(b), to endorse or espouse or support a terrorist
2 organization, but you're familiar with 4(b) as well,
3 correct?

4 A. Could you refresh my memory, please.

5 Q. Sure. You're familiar with the provision of the
6 INA, which you in your deposition referred to as 4(b),
7 which has these exact same grounds that are in 3(b), but
8 as a ground for the revocation or the determination of
9 removability, as opposed to something relating to the
10 ineligibility to come into this country, correct?

11 MS. SANTORA: Objection.

12 THE COURT: No, she may ask him to characterize
13 it, and the answer may stand.

14 MS. SANTORA: Well if she's asking him about a
15 statute or a document, he's asked if she could show him
16 the statute or document.

17 THE WITNESS: Well I would like to see it, ma'am,
18 if you have it there.

19 THE COURT: Yes.

20 MS. CONLON: I'm just trying to be very efficient
21 with our time, but I understand you want to see it. So
22 maybe the easier way to do this is actually the cable
23 you just looked at, 64.

24 A. Okay.

25 Q. This cable is not only about Visa applicants, but

1 it is also about Visa revocations, correct?

2 A. I'm going to have to answer -- honestly I'm going
3 to have to look at the cable.

4 Q. No, all we want are your honest answers, so please
5 pull up the cable.

6 A. For March.

7 Q. So please pull up the cable, and I'm going to draw
8 your attention first to Paragraph 2, on the first page,
9 and next to Paragraph 11, titled "Revocation of Valid
10 Visas." And once you've had a chance to read both of
11 those paragraphs, please let me know.

12 A. 2 and 11, yes?

13 Q. Okay. So having reviewed that --

14 A. No, I'm sorry, Paragraphs 2 and 11?

15 Q. Yes, please.

16 A. Thank you. (Reads.)

17 Q. Okay, so having looked at this cable, you agree
18 with me that this cable --

19 A. I apologize, I'm still reading Paragraph 11.
20 Could I please be allowed to finish?

21 Q. Of course.

22 A. Thank you. (Reads.) I have completed it.

23 Q. Okay. So you have looked at Exhibit 64, the cable
24 we've been discussing, about the grounds for the
25 endorsing, espousing, the support for a terrorist

1 organization, and you can see that this cable addresses
2 not only applicants, but those who are here in our
3 country, correct?

4 A. They may be here in the country, because actually,
5 um, looking at Paragraph 11, um, you could have a --
6 someone could have a valid Visa and not be in the
7 country and have the Visa revoked. Your previous
8 question, if I understand it and remember it correctly,
9 was "Was there a discussion of revocation in this
10 cable?" "Yes, there is." And specifically in Paragraph
11 11. That's a good example. Reading through it quickly,
12 I didn't see it, but it's definitely there in 11.

13 But the holder of the Visa can be -- for example,
14 if someone from Peru applies for a Visa, they get it,
15 additional information later comes to light, that Visa
16 can be revoked whether they're in Peru or whether
17 they're in the United States.

18 Q. Okay. So to answer my question, yes, this cable
19 applies to people who are Visa holders inside the United
20 States as well, correct?

21 THE COURT: He just said it --

22 A. It could, yes.

23 Q. Okay. Now you asked me to refresh your
24 recollection about the INA provision that, in your
25 deposition we described as 4(b). I'm going to try to do

1 that very quickly here so we are all on the same page.

2 MS. CONLON: Can we please show Mr. Armstrong Page
3 7 of what was identified as Exhibit 222.

4 (On screen.)

5 Q. I'm going to show you, Mr. Armstrong, a copy of --

6 MS. CONLON: Oh, and we can't scroll? (Scrolls.)
7 Yes. Okay.

8 Q. So, Mr. Armstrong, I'm showing you a copy of a
9 statute. And this is just to refresh your recollection.

10 A. Yes, I appreciate that.

11 Q. This is codified in the U.S. Code as 8 U.S.C.
12 1227, Deportable Aliens. And you have control of the
13 mouse here, so I'm going to ask you to scroll to Page 7
14 of this, Section 4, titled "Security and Related
15 Grounds."

16 A. (Scrolls.) Yes, I see it, and I see "terrorist
17 activities."

18 Q. Now you can see here, under 4(a), that this
19 statute applies to people who engage in the same grounds
20 we're talking about in 3(b), another part of the INA,
21 but here, instead of it being that they're ineligible,
22 as in Number 3, under 4 they are deportable, correct?

23 A. I haven't compared the exact wording in 3(b), but
24 it does say that, yes, if they engage in, it's 1, 2, 3,
25 that they are deportable.

1 Q. Just like --

2 A. And I believe the finding in that would be done by
3 the Secretary of State.

4 Q. And under (C), 4(c) here, which says "Foreign
5 Policy," so that rolls on to the top of Page 8, here we
6 can see a person who's present in the United States, as
7 determined by the Secretary, to have adverse
8 consequences for foreign policy, that person is
9 deportable, correct?

10 A. Yes, the Secretary of State makes that
11 determination.

12 Q. Right. So my point is that you said, well, 3(b),
13 3(c), that's both -- Oh, our screens just did something
14 strange. You said that those refer to applicants. And
15 you would agree with me that 4(b) and 4(c) are
16 applicable to people who already have a valid Visa or a
17 green card, right?

18 A. Based on a quick review here, yes, that makes
19 sense, they would, um --

20 Q. Okay, well you say a "quick review." But am I
21 recalling correctly that you testified on direct
22 examination that you have to be familiar with statutes,
23 about revocations, removability, to do your job, isn't
24 that what you said?

25 A. I don't remember my testimony. And I'm clearly

1 familiar with it, because I'm able to discuss it. So,
2 yes, I am familiar with this. And again the 4 -- the 4
3 authorities, those are determined by the Secretary.
4 Like the 4 -- excuse me, the 4(c).

5 Q. So earlier I tried to ask you about the language
6 in that cable, about whether a person's alleged hostile
7 attitude towards U.S. Citizens, government, and culture,
8 may be indications that that person supports or
9 sympathizes with terrorist organizations. I'm asking
10 that question with respect to 3(b) and 4(b). And the
11 question is this.

12 In your view, criticism of the Trump
13 administration's policies or actions toward Israel could
14 be relevant to a 3(b) or 4(b) determination, correct?

15 MS. SANTORA: Objection.

16 THE COURT: No, overruled.

17 A. It could be. I would look at the totality of the
18 situation. For example, if the person said that Hamas
19 should kill all of the Trump administration because of
20 the policy, yes, I would say that a statement like that,
21 which would be a criticism of the Trump administration,
22 would be indicative of support for a terrorist
23 organization. So, yes, it could be.

24 Q. (Pause.) Hang on just a moment.

25 So you've given a pretty outrageous example of

1 what could be covered. But you've been asked this
2 question and given this answer.

3 "Could a criticism of the administration's policy
4 or actions of Israel be covered by Paragraph 9?" And
5 your answer is simply "Possibly," correct?

6 A. Yes, it could be. But again you have to look at
7 the totality of it. Perhaps my example seems extreme,
8 but we deal with a lot of extremist people trying to get
9 into the United States and we've got to get it right,
10 Counselor, otherwise it results in terrorist attacks or
11 threats to our own citizens.

12 Q. Well let's talk about some particular people whose
13 cases you dealt with.

14 You testified, on direct examination, that the
15 State Department uses only existing authorities and
16 policies to implement EO 14188 and 14161, correct?

17 A. That's my recollection, yes, it is. We have --

18 Q. No, go ahead.

19 A. We have, with revocations, long established the,
20 um, 3(c), um, 3(b), or 4(b), and 4(c) are long
21 established in the INA, I believe since the beginning
22 when it was initially -- when it became law in the '50s,
23 so it's over 70 years. Yes, long-established policies
24 and methods, tools.

25 Q. Long-established. Your point has been that the

1 EOs did not create new legal authorities, right?

2 A. Yes, that is -- they did not create a new
3 revocation.

4 Q. Now just after you started in your current role,
5 which was February 27th, you were confronted with the
6 cases of Mahmoud Khalil and Yunseo Chung. Are you
7 familiar with those names?

8 A. I remember Mr. Khalil's name. Um, Chung,
9 Mr. Chung is ringing a bell, but I don't remember that
10 one quite as well. But there could have been someone by
11 that name.

12 MS. CONLON: Your Honor, I'd like to show, um,
13 Mr. Armstrong what has been premarked as Exhibit EX,
14 it's an attorney's-eyes only document that we received
15 from the Court, the action memo concerning Mr. Khalil
16 and Ms. Chung. I won't -- we want to be cognizant of
17 not putting it on the screen, because it's AEO.

18 THE COURT: I'm assuming Ms. Santora has it.

19 MS. SANTORA: Um, I -- can they share it with the
20 witness not on the public screen?

21 THE COURT: Well you're saying it, and everyone is
22 cognizant, it's attorney's-eyes only. I assumed you had
23 it?

24 MS. SANTORA: I can get it, your Honor, um, if --

25 THE COURT: Well so long as it's on your screen

1 only, that would be sufficient. We can do that.

2 MS. SANTORA: Okay. If opposing counsel would
3 share it just to the witness's screen?

4 MS. CONLON: We're trying to ensure that we do
5 that and do not show the public, so.

6 MS. SANTORA: Yes, thank you.

7 Q. So while we're getting you the document,
8 Mr. Armstrong, you mentioned that there are certain
9 determinations under 4(c), for example, that only the
10 Secretary of State can make. One such determination is
11 that a person's presence or activities in the U.S. posed
12 a potential adverse foreign policy consequence to the
13 United States, right?

14 A. Yes. I cannot make that determination, only the
15 Secretary of State, whoever that person may be.

16 Q. Okay, we're still working on getting you the
17 documents.

18 (Pause.)

19 MS. SANTORA: Your Honor, I think I may have them
20 now.

21 THE COURT: Thank you.

22 MS. CONLON: That would be really helpful. We
23 just don't want to mess up and put it publicly when
24 we're not supposed to.

25 MS. SANTORA: Which one are you referring to?

1 MS. CONLON: For Mr. Khalil and Ms. Chung, it's an
2 action memo.

3 (Pause.)

4 MS. CONLON: Are you able to find it?

5 MS. SANTORA: Yes. Hold on one second. I want to
6 be sure we have the right one.

7 MS. CONLON: It's on DEF 121 is the Bates.

8 (Pause.)

9 MS. CONLON: And is the Court able to see the
10 Court's copy?

11 THE COURT: I have access to it.

12 You have about 45 minutes total in the
13 examination, if you want to reserve 45 minutes for
14 closing. So go ahead.

15 MS. CONLON: I'm sorry, your Honor, could you say
16 that again? I didn't understand.

17 THE COURT: You have 45 minutes for examination
18 and 45 minutes for closing, as we stand now at 10:00.

19 MS. CONLON: Oh, I see. I understand. Okay.

20 MS. SANTORA: I'm sorry, I don't think our copy
21 has numbers on them.

22 THE COURT: Well it's before the Court.

23 MS. CONLON: Okay, I'll just ask my questions and
24 we'll do our best.

25 THE COURT: Yes, thank you.

1 Q. So, Mr. Armstrong, you passed along, after
2 approving, action memos concerning Mahmoud Khalil and
3 Yunseo Chung to Secretary Rubio, correct?

4 A. I believe there was an action memo. If it went up
5 to the Secretary and I was working, I would have been
6 the last person to look at it before it went. And my
7 name should be on it.

8 Q. That's right. I'm trying to show it to you,
9 because I'd like it to be in evidence and have a number.

10 A. Counselor, if it has my name on it, I believe you.

11 Q. I appreciate that.

12 THE COURT: Well, look, these materials are before
13 the Court in their tortured history and I have made it
14 clear they are part of the record on which I am going to
15 make a decision.

16 MS. CONLON: Okay.

17 THE COURT: Now if you want to separate this out
18 and give it a number, I'm fine with that, we can do that
19 without the time running.

20 MS. CONLON: Okay, thank you.

21 THE COURT: Because it may help you, in both
22 sides, with the requests for findings and rulings.

23 MS. CONLON: Exactly.

24 THE COURT: So go ahead with your questions to the
25 witness.

1 MS. CONLON: Okay.

2 Q. So my question is that prior to issuing this
3 action memo to Secretary Rubio on March 8th, you were
4 not aware of any prior exercises of the Secretary's
5 removal authority under 4(c), correct?

6 MS. SANTORA: Objection.

7 THE COURT: Overruled.

8 A. I do not recall any. That doesn't mean there
9 weren't any. I can only --

10 Q. Mr. Armstrong, please look at the end of your
11 action memo. Sorry, I should have drawn your attention
12 to it to just make this faster. Would you please look
13 at the last line of your action memo.

14 MS. SANTORA: There's a copy here, but it has
15 redactions applied to it, so I --

16 MS. CONLON: All right, we'll just move on.

17 Q. So you don't recall, as you sit here today,
18 whether before you, in almost the first week of your
19 job, authorized this action, whether it was something
20 the State Department had ever done before?

21 A. I believe it was done before, just not under
22 Secretary Rubio, it was the beginning of March, I
23 believe that this took place. Yes, the first week in
24 March?

25 Q. This was March 8th, that's correct.

1 A. Yeah, so Secretary Rubio would have been in the
2 saddle for 6 weeks. But that doesn't mean it was never
3 used by other Secretaries of State. As noted, the INA
4 has been in effect for over 70 years. So I believe it
5 was used at other times. But I would not be surprised
6 if Secretary Rubio had not used it within those 6 weeks
7 of his tenure.

8 Q. So, Mr. Armstrong, you're saying that it was just
9 about Secretary Rubio being new to his role, but isn't
10 it true that what you wrote in the action memo was that
11 Mr. Khalil and Ms. Chung were likely to challenge their
12 removal under this authority, that the courts might
13 scrutinize its basis, and that's because there was no
14 prior exercise of this authority before, not just under
15 Secretary Rubio, under anyone, isn't that correct?

16 A. No, my recollection is it was used at sometime
17 earlier as a matter of fact in this century.

18 Q. In this century?

19 A. But I don't remember a date.

20 Q. Okay. Let's move on to Mr. Mahdawi.

21 This is the action memo, which is also attorneys-
22 eyes only, and I believe it's something we can share
23 with the witness if Ms. Santora doesn't have an
24 unredacted copy of it.

25 You also prepared, or passed along, the action

1 memo concerning Mr. Mahdawi to Secretary Rubio, right?

2 A. This is, um, 5. Okay. Sorry. I'm getting the
3 right document.

4 Q. I appreciate that.

5 A. On March 15th, "Action Memo for the Secretary."
6 Yes, from CA John Armstrong. That is me.

7 Q. Now these -- this action memo concerns a number of
8 people, but in particular Mohsen Mahdawi, right?

9 A. I see three people. Momodou Taal. Badar Khan
10 Suri. And Mohsen Mahdawi.

11 Q. The action memo concludes, for those mentioned,
12 that they are removable under 4(c), correct?

13 A. Just a second. (Looks.) Yeah, and it asks the
14 Secretary to make that decision. I can't make that
15 decision. It's recommending that he make that decision.
16 But I didn't make that decision. I made the case and
17 those who drafted it did and I approved that argument,
18 but it's the Secretary's decision. Which he did find
19 those three people to be removable under 4(c). You can
20 see at the top, um, ma'am, it says the recommendations,
21 "Recommendation 1 approved," "Recommendation 2
22 approved." So, yes, the Secretary agreed with the
23 recommendation.

24 Q. Now for Mr. Suri and Mr. Mahdawi, for whom these
25 actions were approved about a week after Mr. Khalil's

1 removability determination was issued, you specifically
2 anticipated that there could be concerns around the fact
3 that the determination was inextricably tied to their
4 speech, correct?

5 MS. SANTORA: Objection.

6 THE COURT: Overruled.

7 A. Okay, can I review the memo so I can see what it
8 is I signed? I mean this was 3 months ago.

9 Q. You don't recall, is that correct, without having
10 to look?

11 A. Ma'am -- I mean, ma'am, I have -- in a week I can
12 have 50 action memos go across my desk.

13 Q. I understand that you have a very important job
14 with a lot to do. I'm focused on these particular
15 people whose determinations led to determinations of
16 their removability. So if you need to turn to the last
17 paragraph to remember what you said about it, that is
18 just fine, it's the last page of the memo.

19 A. Thank you. I appreciate that. (Looks.) Now the
20 question is Mr. Mahdawi, yes?

21 Q. Yes, the question is Mr. Mahdawi and Mr. Suri.
22 But if you have Mr. Mahdawi in front of you, we can just
23 use that.

24 A. Yeah, actually in the memo it's clear that it was
25 activities. "Antisemitic conduct." "Disruptive

1 protests" and "antisemitic conduct."

2 Q. Mr. Armstrong, do you see where it says "Given the
3 potential that a court may consider his actions
4 inextricably tied to speech protected under the First
5 Amendment, it is likely that courts will closely
6 scrutinize the basis for this determination."

7 Do you see that?

8 A. Which page is this on, on Page 4?

9 Q. Yes, sir, the last page.

10 A. (Looks.) Yes, I see that.

11 Q. Now this memo, that you noted the action and it
12 was approved, um, the date on the top, on the first
13 page, is March 15th. I now understand from you that
14 what I see in the upper left, "Rec 1 approved," "Rec 2
15 approved," means the date -- means that the Secretary
16 approved the recommendation.

17 Is the date next to those two provisions on the
18 top left, by "Rec 1," "Rec 2," the date that the
19 Secretary approved the recommendation?

20 A. Yes, that's --

21 MS. SANTORA: Objection.

22 THE COURT: No, overruled.

23 A. That's my understanding, those are the dates of
24 the approval.

25 Q. And do you see on the first page where it says,

1 right under "Background," "On March 14th, the Assistant
2 Director of NSD referred this information to CA"?

3 A. Yes.

4 Q. So this referral came on the 14th, the action memo
5 was produced on the 15th, and it was approved on the
6 15th. Am I understanding all of that correctly?

7 A. Yes.

8 Q. And in that 24-hour period in which the action
9 memo was generated, 13 people in departments cleared it,
10 does that sound right? If you look at the last page for
11 me. Just making sure I'm understanding that chart
12 correctly.

13 A. Yeah, it could actually be more than 24 hours,
14 depending on when it came in and when the memo went up.
15 But let's say, for the sake of argument, it was
16 approximately 24 hours.

17 Q. So you do see that, am I right?

18 A. Yes, I see the list of clearers.

19 Q. Okay.

20 MS. CONLON: Just a moment.

21 (Pause.)

22 A. And you'll note, on a couple of them, it's "Info."

23 Q. I'm so sorry, I missed that last thing you said.
24 What did you say?

25 A. On a couple of them it's "Info."

1 Q. And "info" just means someone's letting them know,
2 is that right?

3 A. That's correct. So those people actually did not
4 bring any changes or express any opinion about the
5 document.

6 Q. So it would be more accurate to say that 10
7 offices or persons cleared this memo and three people
8 reviewed it, is that fair?

9 A. I count, um, 9. But, yeah, approximately 10.

10 Q. Okay. Now I have one more action memo I want to
11 discuss quickly. And I would like you to, um --

12 MS. CONLON: Ms. Santora, if you have Ms. Ozturk's
13 action number, that's what I'll be asking him about.

14 Q. Now you decided to revoke Rumeysa Ozturk's Visa,
15 right?

16 A. I believe that was under, um -- yes. Yes, I
17 believe that was under authority that I did exercise in
18 my current position.

19 Q. Meaning, um -- meaning as Senior Bureau Official,
20 you were empowered to make that choice, without needing
21 approval from the Secretary, is that what you mean?

22 A. That's correct.

23 Q. Now --

24 A. In other words, it wasn't a 4(c).

25 Q. In reaching that decision, you did -- I assume

1 what you always do, you reviewed the action memo in its
2 entirety, right?

3 A. Yes, actually it was proposed to me -- I believe
4 if it would have come to me, it would have been from
5 the, um, Deputy Assistant Secretary for Visa Services,
6 um, Stuart Wilson.

7 Q. That's right, Stuart Wilson is the person who
8 issued this action memo to you, correct?

9 A. Yes, the, um -- I believe so. I mean I'm -- yes,
10 that would make sense.

11 Q. Do you have access to the action memo, sir?

12 MS. SANTORA: Um, I am looking for it.

13 MS. CONLON: I understand that it's on your
14 screen, Ms. Santora, we've shared it with you. So
15 perhaps you can --

16 MS. SANTORA: Oh, it is, okay. It's on the
17 witness's screen, yes.

18 A. Thank you. Exhibit EY, yes?

19 Q. Yes.

20 Now this memo reflects, on Page 1, that HSI
21 initially identified Ms. Ozturk as deportable
22 potentially under 4(c), the foreign policy provision,
23 right?

24 A. Wait a minute. Yes, in the background.

25 Q. Yes, exactly. Do you see that?

1 A. Yes, and I see I underlined that. Those are my
2 notes.

3 Q. Yes, I understand, but I also understand that the
4 Court has determined that your notes are protected by a
5 privilege, so I am not going to ask you about any of
6 them, um -- I'll leave that there.

7 Q. Now on the second page of the memo, it gets into
8 the factual basis for the proposed action, um, in that
9 big middle paragraph. Do you see that paragraph, it's
10 the middle, the paragraph on the middle of 2?

11 A. (Looks.) Yes, the one that begins "Ozturk was
12 issued an F-1 Visa on December 14th, 2020, valid until
13 December 9th, 2025." Yes?

14 Q. Yes. Now there are various factual allegations in
15 this paragraph compiled by HSI, correct?

16 A. There's information from HSI, yes.

17 Q. Now I'm not going to get into the specifics, but
18 it's fair to say, because you have this in front of you,
19 that this memo considered whether or not she had engaged
20 in antisemitic activity, right, is that a fair
21 characterization?

22 A. Just a moment.

23 Q. Sure.

24 A. (Looks.) Antisemitic activity was part of it.
25 I'm reading it. I see that "S. Wilson noted the

1 totality of the circumstances."

2 So as I believe I stated in my deposition, and
3 have said before, we have to look at the totality of the
4 cases, something that we do with a fair amount of
5 effort. And I think my notes, whether they're protected
6 or admissible or not, the copious amount of them
7 indicates that I looked at this with a fair amount of
8 effort and actually thought about the decision before
9 making it.

10 As a matter of fact, exceptionally, for all the
11 paper I go through in a week or a month or a day
12 sometimes, I actually remember taking some of these
13 notes. I thought long and hard about Ms. Ozturk's case.

14 MS. CONLON: Your Honor --

15 THE COURT: Wait a minute.

16 MS. CONLON: Okay.

17 THE COURT: It's appropriate to say that, um, I
18 think I have erred. I don't think any deliberative
19 privilege applies to ones notes to themselves, and they
20 reflect precisely what the witness has testified, and I
21 now vacate the order as to these, Mr. Armstrong's notes,
22 on the memo to him, as to which he made the decision.

23 Go ahead.

24 Q. Now these notes indicate, in that bottom
25 paragraph, the first line, you wrote the words "actions

1 not words," concerning Ms. Ozturk, correct?

2 A. Yes, that is my handwriting. And the emphasis on
3 that was that it wasn't just her statements, it was
4 things that she did.

5 Q. Yes, now that is exactly what I want to talk to
6 you about. That whole sentence states, "While Ozturk
7 has been involved with actions, protesting Tufts'
8 relationship with Israel, DHS, ICE, HSI, has not however
9 provided any evidence showing that Ozturk has engaged in
10 any antisemitic activity or made any public statements
11 indicating support for a terrorist organization or
12 antisemitism generally."

13 What this sentence describes are things she did
14 not do, correct, actions she did not take?

15 THE COURT: Well it says what it says. But go
16 ahead with your question.

17 A. I would read it with the whole paragraph, things
18 taken out of context do not reflect the totality of
19 complicated cases, which this was a complicated case, as
20 the amount of my notes indicate.

21 Q. Now the whole --

22 A. The next thing her --

23 Q. I'm sorry, I'm going to walk you through the whole
24 paragraph, so don't worry, we're not going to ignore the
25 rest of it.

1 The rest of the paragraph --

2 A. I would -- yeah, I would point out that she had a
3 connection with this banned student organization.

4 Q. Now you say she had a connection, but what the
5 report to you actually says is that the report from HSI
6 implies a connection between her and a now-banned
7 student group. And if you look at the paragraph above
8 that, that implied connection is that she co-wrote an
9 Op-Ed where she agreed with the proposal that had also
10 been agreed to by that student group, isn't that
11 correct, that that's the activity with the connection?

12 A. No, that is not the connection. They said clearly
13 there's a connection, and the connection is not just the
14 Op-Ed in my understanding.

15 Q. But your understanding was only based on this
16 action memo, right, you don't have independent knowledge
17 about Ms. Ozturk's activities apart from what was
18 presented to you here?

19 A. My decision was based on the action memo, that is
20 correct.

21 Q. And it goes on to say that the report presents no
22 evidence other than her membership in a group, which
23 notably is not the group that was banned, but a group
24 that supported a proposal by a banned group, it said it
25 had no evidence other than that, of her connection,

1 right? That's all there was?

2 MS. SANTORA: Objection.

3 THE COURT: No overruled. The question is
4 leading, um, strongly leading, but it's appropriate.

5 A. (Pause.) Is the question that you are asserting
6 that the only evidence was that she belonged to an
7 organization that was a satellite or an ally of another
8 organization, yes?

9 Q. A "satellite"?

10 A. Or associated with another organization.

11 Q. Yes, I guess that is my question. The activity
12 that was the basis for your reaction here, I just want
13 to make sure I understand, because I agree your notes
14 are important.

15 There seem to me to be two actions here described.
16 One, is her writing of an Op-Ed, that is a supposed
17 action. Two, what's treated here, it seems as an
18 action, is that she was part of a group that in the
19 Op-Ed supported a proposal of another group. So some
20 sort of attenuated affiliation with this other group.

21 Am I understanding that correctly?

22 MS. SANTORA: Objection.

23 THE COURT: No, the objection is made, but
24 overruled.

25 A. I'm sorry, there's too many talking at me at once.

1 I'm trying to focus on this. I'm really trying to
2 answer the question.

3 THE COURT: I don't doubt it, sir. Let me try it.

4 As you looked at this paragraph and evaluated it
5 and the totality of the circumstances, is it correct
6 that you, um, considered or were considering at least
7 two actions, and I'll name them. One, is the writing of
8 the Op-Ed. And the second is the, um, affiliation with
9 the group that sponsored the Op-Ed, which, um, had,
10 you're inferring from this, a connection with the
11 now-banned student group.

12 Have I got that right?

13 THE WITNESS: Okay. In reviewing it, the key
14 thing is looking -- and as I recall it, and based on my
15 notes, the key thing that made -- was key in my
16 decision, were her actions. The, one, actions of
17 protesting Tufts' relationship with Israel. Secondly,
18 her activities and associations, which are not speech.
19 Activity and associations with these groups may
20 undermine foreign policy by creating a hostile
21 environment for Jewish students in indicating support
22 for a designated terrorist organization. Those were the
23 key things. Her activities and associations creating a
24 hostile environment for Jewish students and indicating
25 support for a designated terrorist organization. And

1 then the actions of protesting against Israel.

2 THE COURT: Go from there, Ms. Conlon.

3 Q. It's fair to say that the Op-Ed that she wrote is
4 also being construed as an action here?

5 MS. SANTORA: Objection.

6 THE COURT: Overruled.

7 A. If it's in a -- it wasn't the key factor.

8 Q. Can you please answer the question.

9 A. Sure, it wasn't a key factor. If writing -- I
10 suppose one could consider that an action. I think it
11 was more indicative of her motivation in her activities,
12 in her associations and in her activities to create a
13 hostile environment for Jewish students. And I also
14 noted that the Tufts -- and its underlined, "images of
15 weapons." Tufts Students for Justice in Palestine was
16 placed in suspension, the organization she was
17 associated with.

18 Q. Right, associated in your view, because she
19 supported a proposal of another organization that this
20 organization also agreed with. You agree with me this
21 doesn't say she was a part of the group that you've just
22 described?

23 THE COURT: Too long. Start another question.

24 Q. Mr. Armstrong, this memo found that there were not
25 grounds under the foreign policy provision, correct,

1 that that was not presented here?

2 A. Just one moment. I believe so, yes, because we
3 didn't use that provision, which would have required the
4 -- also the approval of the Secretary of State.

5 Q. And just so the record is --

6 A. Yes, I think that's -- yes, a short answer is,
7 yes, the foreign policy grounds did not apply. Of
8 course if the Secretary of State were to determine that,
9 then a different story. But we didn't believe -- Deputy
10 Assistant Secretary Wilson did not believe that they
11 applied.

12 Q. And just so the record is clear, whatever you've
13 said about her alleged affiliation with that group, this
14 action memo says that there was no evidence that she was
15 involved in any of the activities of the suspended
16 group. It says that very clearly. Do you see that?
17 It's the bottom of the second page, the top of the
18 third.

19 A. It says "any antisemitic activity or public
20 statements indicating a support for a terrorist
21 organization, or antisemitism generally." That's what
22 it says.

23 Q. Sir --

24 A. She was clearly involved with the Palestine -- I'm
25 sorry, the Tufts Students for Justice in Palestine.

1 Q. Okay, just so we're really clear here, because I
2 really don't think she deserves to be besmirched
3 further, it says --

4 THE COURT: Just a moment. That's inappropriate.
5 All you do is ask questions.

6 Are we very clear on that, Ms. Conlon?

7 MS. CONLON: Yes, your Honor.

8 THE COURT: All right. It's the witnesses who are
9 testifying here. And though I play a bit role, I'm the
10 one who is going to draw the inferences. Not you.

11 Go ahead.

12 Q. It states, quote, "Nowhere has DHS, ICE, HSI,
13 shown any evidence that Ozturk was involved in any of
14 the activities which resulted in TJSP's being suspended
15 from Tufts," correct?

16 A. Which paragraph are we in, please?

17 Q. We're in the sentence at the bottom of the page
18 that rolls onto the top of the next one, that's right in
19 front of you.

20 A. (Looks.) Yes, I see that.

21 Q. So you said --

22 A. "Nonetheless she was associated with the
23 organization, the Tufts Student for Justice in
24 Palestine. She was against Tufts' relationship with
25 Israel. An association is an activity. She was

1 involved in the Tufts Students for Justice for Palestine
2 activity including when they had the interim suspension
3 for the use of images of weapons to promote a protest
4 rally. You know if you know join the student intifada
5 --

6 Q. Okay, Mr. Armstrong, we're short on time and I
7 think this memo is in evidence --

8 A. It's sort of like saying -- I mean I don't want to
9 waste your time, ma'am, but it's sort of like saying --

10 Q. I'm going to stop it right here, but I have one
11 question, just so I'm clear.

12 This was done under 221(i), not 4(c), correct?

13 A. Just one moment. I believe it was 221(i), but let
14 me look at the top of the memo. Yes, 221(i). Not 4(c).
15 Not 3(c).

16 Q. And that's a provision that let's you revoke not
17 for foreign policy reasons, but for any reason?

18 A. That is correct.

19 Q. Or for none at all?

20 A. There is a reason. It's a discretion. I treat
21 that power, as I believe all Consular Officers, and I
22 try to instill this in them, should treat it seriously.
23 A revocation is a serious decision.

24 Q. Okay, thank you very much.

25 MS. CONLON: Nothing further.

1 THE COURT: And, Ms. Santora, do you have any
2 questions for this witness?

3 MS. SANTORA: No, we don't, your Honor.

4 THE COURT: Mr. Armstrong, thank you. And you're
5 excused.

6 THE WITNESS: Thank you, your Honor.

7 (Zoom ends.)

8 THE COURT: And call the last witness.

9 MR. WANG: Good morning, your Honor, Xiangnong
10 Wang for the plaintiffs, and the plaintiffs call Veena
11 Dubal.

12 (Interruption by Court Reporter.)

13 THE COURT: And you did just right, but the first
14 thing you did was state your name and it seemed to come
15 from nowhere.

16 MR. WANG: You know after two weeks, I've learned.

17 THE COURT: So have we, sir.

18 The witness may take the stand.

19 (Take stand.)

20 (VEENA DUBAL, sworn.)

21 THE CLERK: And can you please state your full
22 name and spell your last name for the record.

23 THE WITNESS: Veena Dubal. My last name is
24 D-U-B-A-L.
25

VEENA DUBAL

DIRECT EXAMINATION BY MR. WANG:

Q. Good morning, Professor Dubal. And the first question for you, Professor, is where do you work?

A. I work at the University of California, Irvine, the School of Law.

Q. And what do you do there?

A. I'm a Professor of Law.

Q. Do you have a role with the American Association of University Professors?

A. Yes, I am the General Counsel of the AAUP.

Q. Right. So I'm going to call that organization the "AAUP," going forward, is that all right?

A. Great.

Q. When did you begin your role as General Counsel with the AAUP?

A. Um, late October, 2024.

Q. And turning to the organization itself. What is the AAUP?

A. So the AAUP is one of the nation's oldest professional organizations, um, representing faculty, um, and graduate student workers at Universities and

1 colleges in the U.S., and the goal of the organization
2 is to, um, define and protect academic freedom and
3 shared-governance principles.

4 Q. Does the AAUP's mission encompass protecting its
5 members right to engage in speech outside of their
6 scholarly work?

7 A. Yes, we call that "extramural speech," um, and
8 from our inception it has been central to the mission of
9 the organization.

10 Q. And so what do you mean by "extramural speech"?

11 A. So "extramural speech" is generally defined as
12 speech in which a speech was made as a citizen, a person
13 who makes it as a citizen, as opposed to in the context
14 of being a, um -- in the context of their expertise as a
15 researcher and a scholar.

16 Q. And when you say as a citizen there, do you mean
17 in their personal capacity?

18 A. In their personal capacity, yes.

19 Q. Does that include engaging in political protests?

20 A. Yes.

21 Q. What about signing public protests?

22 A. Yes.

23 Q. Why is protecting extramural speech part of the
24 AAUP's mission?

25 A. That's a great question. So it was first

1 articulated in our principles from 1915, our first set
2 of principles on academic freedom and tenure, and the
3 reason that extramural speech has long been integrated
4 into how we define academic freedom is because so often
5 our extramural speech is really hard to define outside
6 of the context of our professorial speech.

7 It is often that we speak about public issues, um,
8 in areas that we may be getting new research in, in
9 areas which we may be considered public intellectuals
10 on, um, it is broadly a part of our, um, identity as
11 thinkers, as intellectuals, as people whose job it is to
12 do, um, research, writing, um, debate, be part of -- be
13 part of discourse.

14 And so because, you know, it is so easy to often
15 say, "Well this is extramural speech and therefore not
16 protected and therefore, you know, terminate or
17 discipline someone," it has been critical, over 110
18 years, that extramural speech is protected as academic
19 freedom.

20 THE COURT: Who is eligible to be a member of
21 AAUP?

22 THE WITNESS: So, um, professors, both adjunct and
23 tenure, tenure-track, and graduate students.

24 THE COURT: And how do you become a member?

25 THE WITNESS: That's a great question. You, um --

1 it depends on where you are. If you're at a University
2 or college where we have a chapter, you sign up with
3 your local chapter. Alternatively you can sign up
4 directly with the national. You pay dues. And, um,
5 you're a member.

6 THE COURT: So, um, if there's a chapter, you
7 become a member of the AAUP, um, the name of the college
8 or university, um, chapter?

9 THE WITNESS: Correct. And there are different
10 types of chapters. We have advocacy chapters and then
11 we have collective bargaining chapters. And so our
12 collective bargaining chapters function as local unions
13 for faculty, and the advocacy chapters function more as
14 professional associations on campus.

15 THE COURT: What role does one citizenship play,
16 if any?

17 THE WITNESS: Well ideally it shouldn't play any
18 role, um, noncitizens and citizens should benefit from
19 the same principles of academic freedom, be engaged in
20 shared governance in the same way that, um -- that
21 citizens are.

22 THE COURT: Thank you.

23 Go ahead, Mr. Wang.

24 Q. How many members does the AAUP have?

25 A. We have, excuse me, approximately 50,000.

1 Q. And is, um, membership in your local chapter, does
2 that also mean you have membership in the national AAUP?

3 A. That's correct. If you're a member of the local,
4 you're automatically a member of the national.

5 Q. And you mentioned the citizenship status of the
6 AAUP's members earlier. How did the AAUP's noncitizen
7 members contribute to its mission?

8 A. In the same way that the citizen members
9 contribute. And maybe in more critical ways. You know
10 often it is, with rights and freedoms, that the most
11 marginal people are first affected by the -- by the
12 withering of those rights and freedoms. And so the fact
13 that our noncitizens are engaged in protecting academic
14 freedom and upholding freedoms of shared governance is
15 sort of central to how we, um, how we define ourselves
16 as an organization.

17 Q. So I want to turn to this case now. Why is the
18 AAUP a plaintiff in this lawsuit?

19 A. We are --

20 MR. KANELIS: Objection, your Honor.

21 THE COURT: They're not a plaintiff. Various
22 chapters are plaintiffs.

23 MR. WANG: Your Honor, the National AAUP is also a
24 plaintiff in this lawsuit.

25 THE COURT: All right, I stand corrected, and I

1 appreciate it.

2 Why is that relevant?

3 MR. WANG: Your Honor, um, Professor Dubal is the
4 General Counsel of the plaintiffs and --

5 THE COURT: I know. I know. But tell me what it
6 adds?

7 MR. WANG: It speaks to the AAUP's interest in
8 challenging the policy that --

9 THE COURT: And I've already ruled on that. Let's
10 move on. Sustained.

11 MR. WANG: All right.

12 Q. Are you aware of, um, the ideological deportation
13 policy that is at issue in this lawsuit?

14 A. I am.

15 Q. And when did you become aware of that policy?

16 A. Um, late February, early March, um, I would say
17 specifically when Mahmoud Khalil was first arrested and
18 detained.

19 Q. And do you believe that this policy is ongoing?

20 A. Absolutely. In fact, um, we are closely watching
21 the, um, situation unfolding at Harvard in which the
22 University just received, a few days ago, subpoenas from
23 the federal government asking specifically for the, um,
24 records of international students with respect to any
25 disciplinary proceedings and activities and protests

1 since 2020.

2 Q. After the arrest of Mahmoud Khalil, anything about
3 your role as General Counsel change?

4 A. My role changed dramatically. I went from doing
5 what the General Counsel has traditionally done, which
6 is write amicus briefs primarily, to essentially being a
7 legal aid attorney. I talked every day to, um,
8 noncitizens, members who were extremely afraid, who
9 expressed fear about how the ideological deportation
10 policy was going to affect their economic livelihoods
11 and personal lives, and, um, all of my attention, most
12 of my attention became -- became, um, focused in on, um,
13 the academic freedom and shared governance rights of our
14 noncitizens.

15 Q. And besides your personal duties changing, did the
16 AAUP, as an organization, change after -- do anything
17 differently after Mr. Khalil's arrest?

18 A. Yes. So we redirected, um, a lot of resources to,
19 um, help support our noncitizen members. We put
20 together two town halls for our noncitizen members. We
21 spent a lot of time, our Executive Director, organizers,
22 in addition to my own time, our staff time was
23 redirected and devoted to these issues. And, um, so,
24 yeah, organizationally not only were noncitizen members
25 affected, but we, um, we had to sort of redirect time

1 and resources.

2 Q. So you mentioned these two town halls. I want to
3 ask you about those. And starting with the first one.
4 When did that occur?

5 A. So soon after Mahmoud Khalil was detained and, you
6 know, soon after that, Rumeysa Ozturk, and Badar Khan
7 Suri, and we were getting such a deluge of fear from
8 questions from our noncitizen members, that given that I
9 have a full-time job as a law professor, I thought it
10 was in the best interests of efficiency to put together
11 a town hall in which those questions could maybe get
12 answered in a larger context. And so we reached out to
13 various immigration attorneys, and together with the
14 Middle East Studies Association, we put together our
15 first town hall, um, where we talked about what was
16 happening, answered people's questions, and, um, shared
17 resources and information, information about immigration
18 attorneys and information about certain basic rights and
19 principles.

20 Q. And in your answer you mentioned the Middle East
21 Studies Association. That's also known as "MESA," is
22 that right?

23 A. That's right.

24 Q. Were you personally involved in organizing this
25 event?

1 A. I organized it.

2 Q. And why did you organize this event?

3 A. Because we got so many questions from noncitizens.
4 Every day there was such a clear concern among our
5 membership that I felt that a town hall would not only
6 sort of help to answer those questions and help people
7 make decisions about their lives, but that I also
8 thought it would be a good opportunity for people to
9 come together and, um, have sort of a shared, um, a
10 shared time where they could understand that they were
11 not alone, that the AAUP was, um, standing up for its
12 noncitizen members, and that we were behind them.

13 Q. Had the AAUP ever organized an event like that one
14 before?

15 A. Not to my knowledge.

16 MR. KANELIS: Objection, foundation, your Honor.

17 THE COURT: Well I don't know that it's relevant.
18 Sustained.

19 Q. Okay. So turning to the second event that you
20 mentioned earlier. When did that one occur?

21 A. That one occurred after the detentions and
22 attempted deportations continued, a number of
23 high-profile ones, so we got feedback that our
24 noncitizen members would appreciate another town hall,
25 especially before summer travel began. And so it was

1 late May, um, as people were wrapping up their semesters
2 and, um, thinking about research projects that they were
3 doing abroad, particularly noncitizen members, whether
4 they had to change their research projects altogether,
5 and whether it was safe for them to travel. And so we
6 did another one.

7 Q. And, um, were the topics discussed at the second
8 event similar to the ones discussed at the first event?

9 A. They were the same.

10 Q. Did MESA also co-host this event?

11 A. Yes.

12 Q. And so why did you organize another event, similar
13 to that first town hall, only a few months later?

14 A. Because we got so much feedback that the town hall
15 was so greatly appreciated and there were again a series
16 of continuing, um, high-profile detentions of scholars
17 and students that our noncitizen members were watching
18 and were very very afraid that this continuing policy
19 was going to impact them.

20 MR. KANELIS: Objection, your Honor, the
21 foundation.

22 THE COURT: No, the objection comes too late.
23 That may stand.

24 Q. Are you planning any other events similar to the
25 ones that you just described?

1 A. Yes, we have another one that we plan to have
2 later this month or early August, before people, um, are
3 coming back into the U.S to teach in the fall, to
4 address ongoing fears about what may happen at the U.S.
5 border.

6 Q. And the content of these events, are they
7 different from what the AAUP has typically put on in its
8 events?

9 A. To my knowledge the AAUP has never had to focus on
10 immigration law.

11 Q. And other than content, did the events that you
12 just described differ from the AAUP's other events in
13 any other ways?

14 A. Yes. Um, we have -- so I myself am not an expert
15 on immigration law, so we have had to reach out
16 specifically to, um, to, um, experts in this area. We
17 have, um, had to sort of think about, um, how to make
18 our noncitizen members feel less vulnerable even in
19 attending the events. And so I think a great deal of
20 thought and time has gone into shaping, um, shaping not
21 only the content, but also the structure of the events.

22 Q. And were these events public events?

23 A. They were private events made specifically so that
24 people might feel safe attending them.

25 Q. So you testified earlier about how your personal

1 duties as General Counsel changed after the arrest of
2 Mr. Khalil. How did they change?

3 A. So, um, I was hired or appointed specifically for
4 my expertise in, um, in work law, so I do research and
5 writing on contingency, and there is a rising
6 adjunctification, um, that is the rising use of contract
7 faculty to do the work of professors teaching in
8 universities. And so one of the AAUP's goals, um, under
9 this leadership has been to address adjunctification
10 which we see as a threat to academic freedom. And so
11 that was why I was appointed.

12 THE COURT: "Adjunctification" is where someone
13 teaches a course as an Adjunct Professor, an employee
14 for that course, but otherwise typically they're in
15 practice or, um, their profession embodies that topic?

16 THE WITNESS: So that is true in law schools, but
17 in other disciplines, in physics, in anthropology, in
18 history, often those adjuncts have no other jobs, they
19 are just PhDs who do not have security of employment.

20 THE COURT: Thank you.

21 A. And so because I study precarious work, um, this
22 was something that I was going to focus on. And
23 instead, um, I have spent a lot of time reading about
24 areas outside of my expertise. I'm not a First
25 Amendment scholar. I'm not an immigration law scholar.

1 I have devoted many number of hours to reading cases,
2 Hornbooks, talking to experts in the field, to meet the
3 needs of our noncitizen members in this moment. And
4 again that was not what I accepted when I accepted this
5 appointment in late October. It's not what I had
6 envisioned myself doing. But doing more of what I felt
7 I was equipped to do.

8 THE COURT: You have just a few more minutes,
9 Mr. Wang.

10 MR. WANG: Yeah, just a few more minutes for me.

11 Q. So, um, did this also include having conversations
12 with individual members?

13 A. Yes, I had many conversations with our individual
14 members in an attorney-client context.

15 THE COURT: Wait. Wait a minute.

16 MR. KANELIS: I just --

17 (Laughter.)

18 THE COURT: I understand. So we'll let that
19 stand.

20 Go ahead, Mr. Wang.

21 A. Yes, I had many -- I was contacted by many
22 noncitizen members, individually had attorney-client
23 conversations with them, in which I would refer them to
24 immigration attorneys, sometimes also private security,
25 because people were so afraid of even walking to class.

1 MR. KANELIS: Objection, your Honor, now she's
2 waived privilege and I can ask her questions about
3 privileged communications.

4 THE COURT: We'll see what you can ask her. But I
5 don't take that as an objection, you're just trying to
6 tell me that he's opened the door.

7 Go ahead, Mr. Wang.

8 Q. Without telling me what you discussed specifically
9 with those members, how many of these conversations have
10 you had since Mr. Khalil's arrest?

11 A. It's hard to know. This has been really -- it
12 feels like an emergency, like a nightmare over many
13 months. But I would say, um, somewhere between 80 and
14 100.

15 THE COURT: I mean it's your case to try, but now
16 if you reserving 45 minutes for closing, you're into
17 that time. But go ahead.

18 MR. WANG: Thank you, your Honor. I'll be very
19 brief.

20 Q. So, um, without discussing the specifics again,
21 can you tell me generally about what the number of
22 conversations that you just described something about?

23 MR. KANELIS: Objection, your Honor, it calls for
24 hearsay.

25 THE COURT: It does.

1 MR. WANG: Your Honor, um, I think without hearing
2 what Professor Dubal has to say, it's, um -- (Speaks
3 with co-counsel.)

4 Okay, it's withdrawn.

5 Q. After you had these conversations, what did you do
6 in response?

7 A. I, um, created lists of immigration attorneys that
8 I could send to our noncitizen members. I created new
9 rights information and resources that we could circulate
10 for people who were not -- who stated that they were too
11 fearful to take in the town halls. And I organized
12 these two town halls.

13 Q. And how --

14 MR. KANELIS: Objection, your Honor, move to
15 strike about fearful of attending town halls.

16 THE COURT: Well she's already so testified. In
17 the exercise of discretion, I'll let that stand.

18 Q. How often, after these member conversations, did
19 you refer members to immigration attorneys?

20 A. Almost always.

21 Q. And before Mr. Khalil's arrest, was it part of
22 your role, as GC, to speak with individual members?

23 A. No.

24 Q. And, um -- okay. So I'll just move to a couple
25 final questions.

1 Okay. So in addition to what you've already
2 described, are there other ways that the policy
3 challenged here, that you mentioned earlier, impacted
4 the AAUP?

5 A. The AAUP's central mission is to protect academic
6 freedom and shared governance. I don't believe that
7 there has been a time, since the McCarthy era, where
8 those things have been so deeply and troublingly
9 challenged. The idea that noncitizen members could not
10 express, um, their --

11 MR. KANELIS: Objection, your Honor, as
12 nonresponsive.

13 THE COURT: Yeah, I think it is nonresponsive.
14 Sustained. Sustained.

15 Q. So, um, you testified earlier that, um, you
16 referred some members to immigration attorneys. Did you
17 observe that these members, um, changed the way that
18 they engaged with the AAUP?

19 A. I observed that noncitizen members, who were
20 previously very active in our membership meetings,
21 didn't attend them, or attended them with their video
22 off.

23 Q. And how has, um, what you've just described
24 impacted the AAUP's mission?

25 A. We haven't heard the voices of our noncitizen

1 members, we haven't had their advocacy and insight in
2 our organization, and, um, given that the core of the
3 organization is to protect academic freedom and shared
4 governance, we feel that this is an existential threat
5 to the organization more broadly.

6 MR. WANG: No further questions, your Honor.

7 THE COURT: Do you wish to examine this witness?

8 MR. KANELLIS: I certainly do, your Honor.

9 THE COURT: About how long do you think you're
10 going to take?

11 MR. KANELLIS: Oh, maybe 30 minutes.

12 THE COURT: Okay, we'll take a recess for 15
13 minutes, until 5 minutes after 11:00.

14 During the recess, um, because when we're done
15 here, I expect the -- I expect everyone finally to rest,
16 you might -- if you want to encapsulate certain
17 documents that are now in the record, and give them
18 exhibit numbers, you might prepare a list, it can be an
19 informal list, with the next numbers. And if I'm
20 satisfied with it, I'll simply recite it as part of the
21 record before you rest.

22 We'll stand in recess for 15 minutes. We'll
23 recess.

24 (Recess, 10:50 a.m.)
25

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the forgoing transcript of the record is a true and accurate transcription of my stenographic notes, before Judge William G. Young, on Friday, July 18, 2025, to the best of my skill and ability.

/s/ Richard H. Romanow 07-18-25

RICHARD H. ROMANOW Date