

1 Anthony T. Caso (Cal. Bar #88561)  
2 Email: atcaso@ccg1776.com  
3 CONSTITUTIONAL COUNSEL GROUP  
4 174 W Lincoln Ave # 620  
5 Anaheim, CA 92805-2901  
6 Phone: 916-601-1916  
7 Fax: 916-307-5164

8 Charles Burnham (D.C. Bar# 1003464)\*  
9 Email: charles@burnhamgorokhov.com  
10 BURNHAM & GOROKHOV PLLC  
11 1424 K Street NW, Suite 500  
12 Washington, D.C. 20005  
13 Telephone: (202) 386-6920  
14 \* *admitted pro hac vice*

15 *Attorneys for Plaintiff*

16  
17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

19 JOHN C. EASTMAN,

20 *Plaintiff,*

21 vs.

22 BENNIE G. THOMPSON, *et al.*

23 *Defendants*

24 Case No.: 8:22-cv-00099-DOC-DFM

25  
26 **BRIEF IN SUPPORT OF PRIVILEGE ASSERTIONS AS TO**  
27 **DOCUMENTS HELD IN ABEYANCE**

28 **PROCEDURAL BACKGROUND**

1 In May of this year the congressional defendants withdrew their objections  
2 to 721 documents, continued to object to 721 documents, and held their objections  
3 to 576 documents in “abeyance.” Over the 721 documents to which the  
4 congressional defendants objected, Plaintiff withdrew his claim of privilege over  
5 two documents, identified five as copies, and produced 115 documents pursuant to  
6 this Court’s rulings on comparable materials.  
7

8 Of the remaining 599 documents submitted to this Court for *in camera*  
9 review, the Court held that 20 were protected by the First Amendment (25 pages),  
10 8 by the Attorney-Client privilege (25 pages), 373 by the Work Product doctrine  
11 (1402 pages), and 39 by both Attorney-Client and Work Product (103 pages).  
12 Another 14 (23 pages) were ordered produced with A/C or W/P material redacted.  
13 In other words, the overwhelming majority of the disputed documents (454 of 599,  
14 totaling 1578 pages) were held to be protected. 144 documents were ordered to be  
15 produced as not protected under either Attorney-Client privilege or Work Product  
16 doctrine. The Court ordered a single document (not authored by Dr. Eastman)  
17 produced pursuant to the crime-fraud exception.  
18  
19

20 On September 15, 2022 at the congressional defendants’ request, this Court  
21 set the current briefing schedule to resolve objections to the remaining documents.  
22 [ECF 367](#).

23  
24  
25

1 **THE DOCUMENTS HELD IN ABEYANCE**

2 Of the 576 documents (3236 pages) the congressional defendants previously  
3 held in abeyance, Plaintiff has withdrawn his objections pursuant to this Court’s  
4 prior rulings as to 18 documents.<sup>1</sup> Plaintiff will produce these documents to the  
5 congressional defendants.  
6

7 Of the remaining documents the vast majority are either part of an email  
8 chain this Court has previously held to be protected or very similar to material this  
9 Court has previously held to be protected. The few documents not falling in either  
10 of these categories are mostly clear cases of work product, *e.g.* a draft filing  
11 transmitted with attorney edits.  
12

13 As it would be unwieldy to address all five hundred some documents in this  
14 filing, Plaintiff has prepared a spreadsheet along the lines of privilege logs  
15 previously submitted to the Court in this litigation. The last column of the  
16 spreadsheet (column M) directs the Court to the applicable prior rulings relevant to  
17 the various abeyance documents. Pursuant to this Court’s prior orders, the log will  
18 be submitted to this Court under seal and served upon opposing counsel.<sup>2</sup>  
19  
20  
21

22 \_\_\_\_\_  
23 <sup>1</sup> Plaintiff maintains his objections to this Court’s prior rulings as stated on the  
record at the time.

24 <sup>2</sup> Plaintiff will confer with opposing counsel as to whether the information in the  
25 spreadsheet will lessen the need for this Court’s *in camera* review.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Respectfully submitted,

/s/ Charles Burnham

Charles Burnham (D.C. Bar# 1003464)\*  
Email: charles@burnhamgorokhov.com  
BURNHAM & GOROKHOV PLLC  
1424 K Street NW, Suite 500  
Washington, D.C. 20005  
Telephone: (202) 386-6920  
*\* admitted pro hac vice*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF SERVICE**

I have served this filing on all counsel through the Court’s ECF system.

Respectfully submitted,

/s/Anthony T. Caso  
Anthony T. Caso (Cal. Bar #88561)  
CONSTITUTIONAL COUNSEL GROUP  
174 W Lincoln Ave # 620  
Anaheim, CA 92805-2901  
Phone: 916-601-1916  
Fax: 916-307-5164  
Email: [atcaso@ccg1776.com](mailto:atcaso@ccg1776.com)

Charles Burnham  
(D.C. Bar# 1003464)\*  
Email: [charles@burnhamgorokhov.com](mailto:charles@burnhamgorokhov.com)  
BURNHAM & GOROKHOV PLLC  
1424 K Street NW, Suite 500  
Washington, D.C. 20005  
Telephone: (202) 386-6920  
*\* admitted pro hac vice*