

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 010 - FOLDER 005

[3/11/1996 - 3/29/1996]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Kathleen Wallman. Subject: dinner (1 page)	03/13/1996	Personal Misfile
002. email	Elena Kagan to Kathleen Wallman. Subject: youth (1 page)	03/13/1996	Personal Misfile
003. email	Elena Kagan to Jack Quinn and Kathleen Wallman. Subject: assorted matters [partial] (1 page)	03/14/1996	P6/b(6)
004. email	Elena Kagan to Marvin Krislov. Subject: coffee (1 page)	03/14/1996	Personal Misfile
005. email	Elena Kagan to Kathleen M. Wallman. Subject: marvin's work. [partial] (1 page)	03/15/1996	P6/b(6)
006. email	Elena Kagan to Ron Klain. Subject: Personal. (1 page)	03/25/1996	P6/b(6)
007. email	Elena Kagan to Ron Klain. Subject: [job] (1 page)	03/25/1996	P6/b(6)
008. email	Elena Kagan to Deborah Fine. Subject: Re: Change in Meeting (1 page)	03/28/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 11-MAR-1996 13:01:55.22

SUBJECT: pleading

TO: Dinah Bear (BEAR_D) (CEQ)

READ: 11-MAR-1996 13:44:48.00

TEXT:

After reading the industry's submission, I'm even more convinced that we shouldn't be doing what we're doing. If they didn't raise the argument, why should we?

Having said that, I contented myself with suggesting some language changes to Wells (who said he would run them past Lois). We shall see.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:11-MAR-1996 09:52:54.15

SUBJECT: RE: hatfield language

TO: Dinah Bear (BEAR_D) (CEQ)

READ:11-MAR-1996 11:53:12.40

CC: Martha Foley (FOLEY_M) (WHO)

READ:11-MAR-1996 09:53:05.22

TEXT:

Everything you say is right. The only point I wanted to make is that in (k)(2) cases, we currently have unilateral authority to (indeed, we must) provide replacement timber meeting the admittedly rigid terms of (k)(3). The new report language may suggest otherwise -- it may suggest that even under current law, the purchaser must agree to the provision of this timber. And the new statutory language, though giving us authority to provide mutually agreeable replacement timber in circumstances where we may not now have it, also takes away this (again, admittedly constrained) unilateral authority.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 11-MAR-1996 14:07:04.95

SUBJECT: RE: pleading

TO: Dinah Bear (BEAR_D) (CEQ)

READ: 11-MAR-1996 14:17:03.35

TEXT:

DOJ took my suggestions, so i guess i have no further grounds for complaint.
The conference call is at 3:00. Call 690-2245.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:12-MAR-1996 10:37:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN_P (OPD)

READ:12-MAR-1996 10:38:02.81

TEXT:

This is a Read Receipt Notification for:

Message Title:	Line-Item
Addressee:	KAGAN_E
Date Sent:	12-Mar-1996 10:12am
Date Read:	12-Mar-1996 10:37am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:12-MAR-1996 17:58:40.81

SUBJECT: reg ref

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:13-MAR-1996 08:57:19.59

TEXT:

I just heard another report on regulatory reform: that the Democratic Caucus met today and that everyone, with the single exception of Johnston, was firm that nothing should be added to the little bill. If that's the case, Tracey's report -- i.e., that the Republicans won't dare support an effort to broaden the bill -- may be right on the money.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Kathleen Wallman. Subject: dinner (1 page)	03/13/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 11:37:02.02

SUBJECT: abortion language

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:13-MAR-1996 11:44:23.64

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:13-MAR-1996 10:27:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Elena Kagan

ATT SUBJECT: abortion language

ATT TO: Nancy-Ann E. Min (MIN_N)

TEXT:

Because we've had so much trouble reaching each other, I thought I'd send you an e-mail giving you my preliminary analysis. In brief, I can see three possible ways in which the provision you sent me might have an e

ffect on current funding,

notwithstanding the "conscience exemption" in the current ACGME standard.

1. The current ACGME standard might be thought to require training in abortion procedures, within the meaning of the statute, even though it has a conscience exemption. The argument would be that the ACGME standard requires training in abortion for anyone without a religious or moral objection. So, for example, the standard precludes a residency program from deciding that such training is unnecessary or uneconomical or overly disruptive. Because the standard requires some programs to provide abortion training -- even if other programs get an exemption for religious or moral reasons -- the standard falls within the statutory language, and anyone who uses the standard would subject themselves to a cut-off of funding. In my judgment, this argument is strong enough to appeal to some courts, not strong enough to appeal to all courts; a few snippets of legislative history as to whether the statutory language covers the current ACGME standard could make all the difference.

2. It is possible, though I think unlikely, that even if the above argument is rejected, the current AFGME standard might be thought to require that programs "make arrangements for the provision" of training in abortion procedures. The
a

rgument would be that the ACGME requirements (1) that a program publicize its abortion training policies and (2) that it not impede residents from receiving abortion training (a requirement that might entail some affirmative administrative functions) together count as a requirement that the program "make arrangements" for the provision of abortion training.

3. Perhaps most important, as I understand it, the old ACGME standard clearly did require training in abortion procedures (because there was not even a conscience exemption). If that's so, then this statutory language would prevent a State from relying upon any accreditation decision made under the old standard. I don't know precisely how this would come up, but assume (to use just one example) that a State establishes as an eligibility requirement for some benefit that doctors have completed an accredited postgraduate program. Dr. A completed such a program in 1990, at a time when the old ACGME standard applied. Dr. B completed, also in 1990, an unaccredited program. The State

treats Dr. A and Dr. B differently, because one completed an accredited program and one did not. As far as I can see, this constitutes a violation of the statute (leading to a cut-off of funding) because the State is making receipt of the benefit depend upon accreditation decisions that used the old standard (i.e., the standard requiring training in abortion).

Give me a call when you have time. I'd like to hear your reactions to this analysis, as well as tap you for information on whether this provision and the rape and incest provision we talked about a few days ago are in the current CR.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 16:59:15.00

SUBJECT: RE: youth

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:13-MAR-1996 16:59:26.57

TEXT:

I actually told Merrick today that you're one of the funniest people I've ever met. Scout's honor.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 10:01:06.14

SUBJECT: work assignments

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:13-MAR-1996 11:24:07.20

TEXT:

whatever (if anything) you want to give me of all that stuff is fine with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 16:24:31.38

SUBJECT: RE: youth

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:13-MAR-1996 16:24:39.20

TEXT:

If that's the problem, I assure you that I can stop laughing immediately.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 16:02:31.47

SUBJECT: lrm on hr 2086

TO: Jeffrey A. Weinberg

(WEINBERG_J) (OMB)

READ:13-MAR-1996 16:02:38.51

TEXT:

looks fine to me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-MAR-1996 11:35:31.30

SUBJECT: abortion language

TO: Nancy-Ann E. Min (MIN_N) (OMB)

READ:13-MAR-1996 17:06:34.00

TEXT:

Because we've had so much trouble reaching each other, I thought I'd send you an e-mail giving you my preliminary analysis. In brief, I can see three possible ways in which the provision you sent me might have an e

ffect on current funding,

notwithstanding the "conscience exemption" in the current ACGME standard.

1. The current ACGME standard might be thought to require training in abortion procedures, within the meaning of the statute, even though it has a conscience exemption. The argument would be that the ACGME standard requires training in abortion for anyone without a religious or moral objection. So, for example, the standard precludes a residency program from deciding that such training is unnecessary or uneconomical or overly disruptive. Because the standard requires some programs to provide abortion training -- even if other programs get an exemption for religious or moral reasons -- the standard falls within the statutory language, and anyone who uses the standard would subject themselves to a cut-off of funding. In my judgment, this argument is strong enough to appeal to some courts, not strong enough to appeal to all courts; a few snippets of legislative history as to whether the statutory language covers the current ACGME standard could make all the difference.

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3. Perhaps most important, as I understand it, the old ACGME standard clearly did require training in abortion procedures (because there was not even a conscience exemption). If that's so, then this statutory language would prevent a State from relying upon any accreditation decision made under the old standard. I don't know precisely how this would come up, but assume (to use just one example) that a State establishes as an eligibility requirement for some benefit that doctors have completed an accredited postgraduate program. Dr. A completed such a program in 1990, at a time when the old ACGME standard applied. Dr. B completed, also in 1990, an unaccredited program. The State treats Dr. A and Dr. B differently, because one completed an accredited program and one did not. As far as I can see, this constitutes a violation of the statute (leading to a cut-off of funding) because the State is making receipt of the benefit depend upon accreditation decisions that used the old standard (i.e., the standard requiring training in abortion).

Give me a call when you have time. I'd like to hear your reactions to this analysis, as well as tap you for information on whether this provision and the rape and incest provision we talked about a few days ago are in the current CR.

Withdrawal/Redaction Marker

Clinton Library

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002. email	Elena Kagan to Kathleen Wallman. Subject: youth (1 page)	03/13/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F

ke777

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 13-MAR-1996 17:32:38.66

SUBJECT: debt for nature

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ: 13-MAR-1996 17:40:17.33

TEXT:

Just a reminder that you said you were going to send me over some materials.
Many thanks.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Elena Kagan to Jack Quinn and Kathleen Wallman. Subject: assorted matters [partial] (1 page)	03/14/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 14-MAR-1996 08:50:22.79

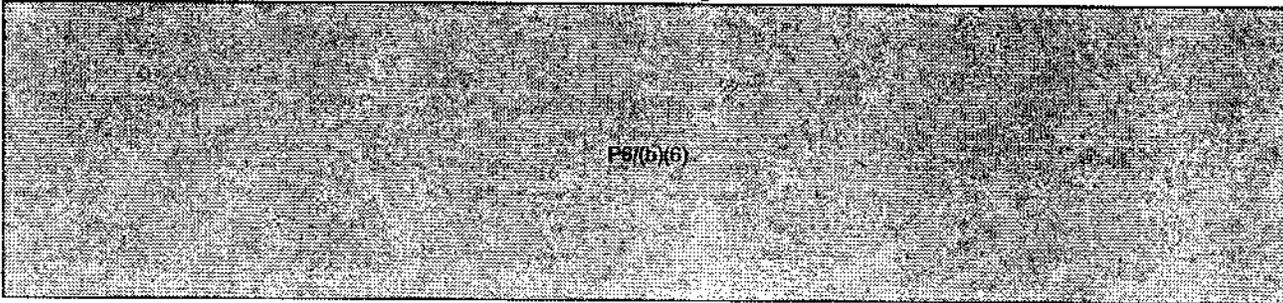
SUBJECT: assorted matters

TO: Jack M. Quinn (QUINN_J) (WHO)
READ: 26-MAR-1996 09:43:20.13

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)
READ: 14-MAR-1996 09:21:24.15

TEXT:

1. Nancy-Ann Min just told me that the CR now contains a provision simply allowing states to decline funding for abortions to victims of rape and incest. There's no provision for the federal government to pick up such funding subject to state reporting requirements. Of course, this is completely unacceptable.
2. As you may have seen, Bob Dole has written the President another letter about partial birth abortions. We should consider -- and perhaps discuss with George and others -- whether we want to respond at all.



[003]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-MAR-1996 14:45:46.57

SUBJECT: latest version of statement on products

TO: Jon Yarowsky (YAROWSKY_J) (WHO)

READ:28-MAR-1996 18:34:00.39

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:14-MAR-1996 14:46:38.08

TO: Sally Katzen (KATZEN_S) (OMB)

READ:14-MAR-1996 15:44:58.69

TO: James J. Jukes (JUKES_J) (OMB)

READ:14-MAR-1996 15:29:14.53

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:14-MAR-1996 14:44:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

2. Services and compliance activities: Among other services, the team shall provide creative, production and time buying services for paid television and radio advertisements as requested and as directed by the Re

-elect and by the DNC, respectively.

In order to ensure full compliance with the FEC regulations, the Team shall establish systems and procedures to meet all requirements of the FEC in this regard as well as the guidelines issue from time to time by the General Counsels of the Re

-elect and the DNC.

In addition, the attached schedule from Squier/Knapp shall be part of any agreement.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-MAR-1996 16:44:07.42

SUBJECT: timber

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:14-MAR-1996 18:16:25.91

TEXT:

In case you haven't heard, there's a meeting in Katie's office tomorrow at 4:00 re cancellation of the First and Last contracts.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-MAR-1996 11:22:47.65

SUBJECT: nothing on timber

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:14-MAR-1996 13:06:19.82

TEXT:

I haven't forgotten about you; I've just heard nothing about timber recently.
I'll try contacting some folks later in the day.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 14-MAR-1996 13:02:58.99

SUBJECT: new version

TO: Jon Yarowsky (YAROWSKY_J) (WHO)

READ: 28-MAR-1996 18:34:10.97

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ: 14-MAR-1996 13:51:33.69

TO: Sally Katzen (KATZEN_S) (OMB)

READ: 14-MAR-1996 15:22:00.82

TO: James J. Jukes (JUKES_J) (OMB)

READ: 14-MAR-1996 14:57:37.29

TEXT:

PRINTER FONT 12_POINT_COURIER

The Administration opposes, and the President will veto, the Conference Report on H.R. 956 in its current form.

The Administration would support the enactment of limited but meaningful product liability reform at the federal level. Any legislation, however, must fairly balance the interests of consumers with those of manufacturers and sellers. Further, any legislation must respect the important role of the states in our federal system. The Conference Report fails to meet these requirements. On the basis of a distorted set of findings, which for example fails to recognize that the current increase in litigation is attributable to commercial suits between corporations rather than consumer

-initiated product liability actions, H.R. 956 sweeps too broadly in overhauling the product liability system.

As a general matter, product liability reform is the responsibility and prerogative of the states, rather than of Congress. This is an area in which states have served as laboratories, testing and developing new ideas and making needed reforms. As in other spheres of government, proponents of federal restrictions on traditional state prerogatives bear the burden of persuasion in justifying new federal intervention. For several provisions in particular, noted below, this burden has not been met.

Moreover, the Conference Report unfairly tilts the legal playing field to the disadvantage of consumers. Many provisions of H.R. 956, such as those dealing with punitive damages and the statute of repose, displace state law only when that law is more favorable to the consumer; when state law is more favorable to manufacturers and sellers, it remains in operation. This "one

-way preemption" too greatly shifts the balance away from consumers. So too do several specific provisions, noted below, that would impede the ability of injured persons to gain fair and adequate recovery.

In particular, the Administration opposes Section 108, which imposes an artificial ceiling on the amount of punitive damages

that may be awarded in a products liability action. As the Administration has previously stated, statutory caps are improper because they ignore the fundamental purpose of punitive awards: to punish and deter. The so

-called additur provision, allowing judges to exceed the ceiling in certain rare circumstances, does not solve this problem, especially given the gloss given to that provision in the Statement of Managers, which says that

"occasions for additional awards will be very limited indeed." Section 108 invites a wealthy potential wrongdoer to weigh the risks of a capped punitive award against the potential gains or profits from the wrongdoing.

The Administration also opposes Section 110, which would abolish joint

-and

-several liability for noneconomic damages (most notably, pain and suffering). This provision would severely and unfairly discriminate against those innocent victims who suffer mostly noneconomic damages, including elderly citizens and others with little future income. Noneconomic damages are as real and as important to victims as economic damages; those who suffer such damages, like all other victims, should not have to bear the burden of rounding up every conceivable defendant; neither should they suffer if one defendant has gone bankrupt.

In addition, the Conference Report takes a large step backward from the Senate version in deleting a provision that would have tolled the statute of limitations in the event of a stay or injunction against an action. Such a provision is critical when a potential defendant goes bankrupt, as recently happened in cases involving asbestos and the dalkon shield. In such a case, the bankruptcy court will issue a stay pending the completion of its proceedings; if the statute of limitations is not tolled, many injured persons will lose their claims.

Finally, the Conference Report completely fails to address one significant problem: the increasingly familiar situation of a foreign national who is unavailable to receive process for a defective product put in the stream of commerce in the United States. A fair system of justice would ensure that foreign manufacturers are held to the same high standard of responsibility as are domestic manufacturers.

The Conference Report includes some good and useful provisions. In particular, Title II is a laudable attempt to ensure that suppliers of biomaterials will provide sufficient quantities of their products to manufacturers of medical devices. The Administration is committed to working with Congress to address this issue.

The President, however, will have to veto the Conference Report, if presented to him in its present form, because of its provisions on punitive damages and non

-economic damages, both of which interfere unduly with state prerogatives and unfairly skew the legal playing field away from consumers.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:14-MAR-1996 11:21:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN_E (OPD)

READ:14-MAR-1996 11:22:14.99

TEXT:

This is a Read Receipt Notification for:

Message Title: One more thing on products
Addressee: KAGAN_E
Date Sent: 14-Mar-1996 11:15am
Date Read: 14-Mar-1996 11:21am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-MAR-1996 19:01:06.52

SUBJECT: RE: can we get together the last week in march when i'm back

TO: Marvin Krislov (KRISLOV_M) (WHO)

READ:14-MAR-1996 19:14:38.56

TEXT:

Of course; no problem. Be well.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Elena Kagan to Marvin Krislov. Subject: coffee (1 page)	03/14/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:14-MAR-1996 11:00:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN_E (OPD)

READ:14-MAR-1996 11:08:18.04

TEXT:

This is a Read Receipt Notification for:

Message Title: prodcuts problems
Addressee: KAGAN_E
Date Sent: 14-Mar-1996 10:42am
Date Read: 14-Mar-1996 11:00am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-MAR-1996 08:38:22.36

SUBJECT: RE: ITEM VETO MEETING--1PM

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

READ:14-MAR-1996 09:49:55.88

TEXT:

Yes, that's fine -- unless I have a products liability emergency.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. email	Elena Kagan to Kathleen M. Wallman. Subject: marvin's work. [partial] (1 page)	03/15/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:15-MAR-1996 10:22:56.31

SUBJECT: marvin's work

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:15-MAR-1996 10:24:55.74

TEXT:

Just let me know what (if anything) you'd like me to do. My only expertise is with respect to affirmative action law, which I teach and know quite well. But if you gave me that, P6(b)(6), and maybe some other people might resent it as well. So I'm easy; just let me know.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:15-MAR-1996 11:09:54.16

SUBJECT: tomorrow

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:15-MAR-1996 11:15:17.93

TEXT:

I think these directions have scared me off. (Just kidding.)

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:18-MAR-1996 09:23:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN_E (OPD)

READ:18-MAR-1996 09:26:49.87

TEXT:

This is a Read Receipt Notification for:

Message Title: Products points
Addressee: KAGAN_E
Date Sent: 18-Mar-1996 09:14am
Date Read: 18-Mar-1996 09:23am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-MAR-1996 09:26:15.99

SUBJECT: products

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:18-MAR-1996 09:26:51.54

TEXT:

Looks good. I asked Jack whether there was anything left to be done. He said no.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-MAR-1996 08:57:17.85

SUBJECT: talking points

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:18-MAR-1996 08:59:05.54

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:18-MAR-1996 08:56:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-MAR-1996 09:33:51.94

SUBJECT: campaign finance

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:18-MAR-1996 11:05:20.05

TEXT:

It occurred to me that we should get the OLC folks to go through the rest of the campaign finance bill checking for constitutional problems. What do you think?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-MAR-1996 12:19:53.98

SUBJECT: RE: Product Liability Veto Message

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)
READ:18-MAR-1996 12:37:52.80

CC: James J. Jukes (JUKES_J) (OMB)
READ:18-MAR-1996 13:11:46.26

CC: James C. Murr (MURR_J) (OMB)
READ:18-MAR-1996 14:26:00.59

CC: Jeffrey A. Weinberg (WEINBERG_J) (OMB)
READ:18-MAR-1996 12:20:06.14

TEXT:
I agree with Ellen.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-MAR-1996 17:17:10.96

SUBJECT: RE: request from Kathy

TO: Erin Kelly (KELLY_E) (WHO)

READ:18-MAR-1996 17:18:38.13

TEXT:

anything kathy wants to give me (or not) is AOK with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:19-MAR-1996 17:11:46.26

SUBJECT: RE: Memo from Kathy Wallman

TO: Odetta S. Walker (WALKER_O) (WHO)

READ:19-MAR-1996 17:14:22.01

TEXT:

Odetta: Could you let Kathy know that I think she already assigned me (1) (it sounds a lot like the stuff that Harriet Rabb has been talking about), though if she wants to reassign it, she should feel free to. Thanks. Elena

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:19-MAR-1996 11:37:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN_E (OPD)

READ:19-MAR-1996 14:43:18.21

TEXT:

This is a Read Receipt Notification for:

Message Title: Elena, the meachine's not working. Is this readable?
Addressee: KAGAN_E
Date Sent: 19-Mar-1996 11:36am
Date Read: 19-Mar-1996 11:37am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 19-MAR-1996 11:37:26.49

SUBJECT: RE: RCRA

TO: Stephen R. Neuwirth (NEUWIRTH_S) (WHO)

READ: 19-MAR-1996 11:41:10.52

TEXT:

No; never done anything. Thanks for asking.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:20-MAR-1996 15:33:00.00

SUBJECT: Receipt Notification

TO: BRIATICO_A (OMB)

READ:20-MAR-1996 15:34:33.11

TEXT:

This is a Read Receipt Notification for:

Message Title: Clarification - Comments on LRM 3845 Due at 4 p.m. TODAY!

Addressee: KAGAN_E

Date Sent: 20-Mar-1996 03:33pm

Date Read: 20-Mar-1996 03:33pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 14:08:35.29

SUBJECT: Line item veto

TO: Jack M. Quinn (QUINN_J) (WHO)

READ:26-MAR-1996 09:49:27.44

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:22-MAR-1996 13:09:17.66

TEXT:

Two further details on the line item veto conference report

1. The effective date is 1/1/97 (NOT, as we thought yesterday, the earlier of 1/1/97 or date of enactment of a seven-year balanced budget plan).

2. The President will have veto authority only when he signs a bill. If he just lets the bill become law, he loses the ability to veto spending items.

And a P.S. to Jack: I've been working on this with Chuck Konigsberg throughout.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 17:33:48.88

SUBJECT: first and last

TO: Dinah Bear (BEAR_D) (CEQ)

READ:21-MAR-1996 18:12:32.83

TEXT:

what happened? did we put out a statement? can i get a copy?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 12:28:09.97

SUBJECT: veto statement

TO: Timothy J. Keating (KEATING_T) (WHO)

READ:21-MAR-1996 12:30:24.46

TEXT:

I've given a draft to Jack and Bruce. I'll get it to you as soon as possible.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 09:20:57.51

SUBJECT: abortion language

TO: Nancy-Ann E. Min (MIN_N) (OMB)

READ:21-MAR-1996 09:52:00.53

TO: Martha Foley (FOLEY_M) (WHO)

READ:21-MAR-1996 09:31:30.70

TEXT:

I'm having some trouble seeing my way around all the quadruple negatives, but ...

1. I think what we want is the exact opposite of the edits to Section 245(a). We want to put in each place the phrase "on grounds of religious or moral objections" (or "for reasons relating to religious or moral objections" or something like that). That prohibits discrimination against a health provider who refuses to provide abortion training on religious or moral grounds, but allows discrimination against a health provider who refuses to provide abortion training on other grounds (e.g., because it's too expensive or too disruptive). Since AFGME does not discriminate against religious or moral objectors, but does discriminate against everyone else, that language will exactly match (and therefore safeguard) the AFGME standards.

2. I think the edits on 245(b) are exactly right except that I would say, for purposes of clarity, "notwithstanding THE ENTITY'S moral or religious objections." The substitution of this entire phrase, as Nancy notes, would allow continued use of the AFGME standards because they do NOT require an entity to "provide ab

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 16:18:01.90

SUBJECT: Oh, you know

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ:NOT READ

TEXT:

what (if anything) is going on??

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-MAR-1996 13:39:30.23

SUBJECT: dole letter

TO: Jeremy D. Benami (BENAMI_J) (WHO)

READ:21-MAR-1996 13:44:46.50

TEXT:

Jack and George both say no letter. I think we've covered the bases on this one. Why don't you get back in touch with the Leg Aff people and tell them we're not responding? Many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-MAR-1996 17:14:08.38

SUBJECT: same

TO: Ron Klain (KLAIN_R) Autoforward to: Remote Addressee
READ:NOT READ

TEXT:

By the by, you should know that I actually didn't hear about the VP's position from Jack. I heard it first from Chris Cerf, who overheard a conversation between me and Jack, knows the general situation, and also talks to Joel quite often. Jack has been extremely protective of what the VP thinks -- as, of course, you have.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 22-MAR-1996 15:56:10.77

SUBJECT: RE: Pressing question

TO: David Fein (FEIN_D) (WHO)

READ: 22-MAR-1996 16:10:17.34

TEXT:
sorry.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-MAR-1996 13:21:14.91

SUBJECT: RE: product liability meeting

TO: Marilyn Yager (YAGER_M) (WHO)

READ:22-MAR-1996 13:51:14.08

TEXT:

I won't be able to make it. If you can fill me in afterward, I'd really appreciate it.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:23-MAR-1996 11:55:16.94

SUBJECT: two matters

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:25-MAR-1996 09:44:30.12

TEXT:

1. I take it Jack would like to speak with us about Kitty Kolbert's idea for allowing federal employees to obtain abortion coverage. When would be a good time for the two of you?
2. What's going on with this idea of creating a federal cause of action to enforce welfare obligations? As I e-mailed Odetta, I did some work on something similar sounding about a month ago: basically, I talked to the folks at HHS and gave them my views about the best ways to try to "sneak" a cause of action into the welfare bill. I meant to write a memo to you and Jack summarizing the conversations, but stupidly forgot. Is there now movement on this at the White House? Of what kind and involving whom? If you'd like to reassign this, you should feel perfectly free. But if you'd like me to continue, let me know with whom I should be talking. Thanks.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	Elena Kagan to Ron Klain. Subject: Personal. (1 page)	03/25/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 14:45:32.16

SUBJECT: RE: SAT NIGHT

TO: CN=Kumiki S. Gibson/O=OVP (CN=Kumiki S. Gibson/O=OVP@OVP@LNGATE@EOPMRX)
READ:NOT READ

CC: WHALEN_K (WHALEN_K@A1@CD) (WHO)
READ:NOT READ

CC: KRISLOV_M (KRISLOV_M@A1@CD) (WHO)
READ:NOT READ

CC: CN=Sheryll Cashin/O=OVP (CN=Sheryll Cashin/O=OVP@OVP@LNGATE@EOPMRX)
READ:NOT READ

CC: WARNATH_S (WARNATH_S@A1@CD) (OPD)
READ:NOT READ

TEXT:
I vote for AVs.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 18:07:42.72

SUBJECT: and again

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ:NOT READ

TEXT:

what did joel say about the civil division?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:25-MAR-1996 14:45:00.00

SUBJECT: Receipt Notification

TO: BRIATICO_A (OMB)

READ:25-MAR-1996 15:21:16.68

TEXT:

This is a Read Receipt Notification for:

Message Title: Reminder - Comments on Senate SAP for H.R.849 Due

Addressee: KAGAN_E

Date Sent: 25-Mar-1996 02:32pm

Date Read: 25-Mar-1996 02:45pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 15:37:54.56

SUBJECT: RE: Draft Panetta talking points

TO: Barry J. Toiv (TOIV_B) (WHO)

READ:25-MAR-1996 15:42:19.88

TEXT:

One possible clarification, just so you know:

Our SAP actually praised the biomaterials section as a "laudable attempt" to ensure that manufacturers get the materials they need to produce life-saving medical devices. (The classic case here is the heart valve manufacturer who can't get plastic because no plastic company wants to expose itself to a million-dollar suit.)

Our veto statement will continue to make this point. But it will also say that the biomaterials section must be amended to ensure that NEGLIGENT biomaterials suppliers (e.g., the silicone gel supplier who knows that breast implants containing the gel will harm women) receive no protection from suit.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:25-MAR-1996 15:20:00.00

SUBJECT: Receipt Notification

TO: TOIV_B (WHO)

READ:25-MAR-1996 15:25:12.45

TEXT:

This is a Read Receipt Notification for:

Message Title: Draft Panetta talking points
Addressee: KAGAN_E
Date Sent: 25-Mar-1996 03:16pm
Date Read: 25-Mar-1996 03:20pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:25-MAR-1996 16:31:00.00

SUBJECT: Receipt Notification

TO: TOIV_B (WHO)

READ:25-MAR-1996 16:31:42.18

TEXT:

This is a Read Receipt Notification for:

Message Title: Pls check changed talking point - OK?

Addressee: KAGAN_E

Date Sent: 25-Mar-1996 04:12pm

Date Read: 25-Mar-1996 04:31pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 17:32:12.29

SUBJECT: RE: FYI

TO: Todd Stern (STERN_T) (WHO)

READ:25-MAR-1996 17:32:34.08

TEXT:

talk about asking for trouble.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 15:57:00.05

SUBJECT: RE: Draft Panetta talking points

TO: Barry J. Toiv (TOIV_B) (WHO)

READ:25-MAR-1996 16:00:56.99

TEXT:

Right. Negligent suppliers of biomaterials should not get protection from suit.
Neither should any manufacturers of products using biomaterials.
This bill entirely exempts negligent suppliers of biomaterials from suit.
And it gives manufacturers of products using biomaterials (including the
manufacturers of breast implants) the same protections -- elimination of joint
liability, caps on punitives -- we're generally objecting to.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 15:27:03.66

SUBJECT: RE: Draft Panetta talking points

TO: Barry J. Toiv (TOIV_B) (WHO)

READ:25-MAR-1996 15:27:16.81

TEXT:

It all looks fine to me.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. email	Elena Kagan to Ron Klain. Subject: [job] (1 page)	03/25/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F

ke777

RESTRICTION CODES

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Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-MAR-1996 16:30:35.51

SUBJECT: RE: Pls check changed talking point - OK?

TO: Barry J. Toiv (TOIV_B) (WHO)

READ:25-MAR-1996 16:31:00.42

TEXT:

Change "producers" to "suppliers" and you've got it.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 25-MAR-1996 15:19:17.55

SUBJECT: RE: APB from Kathly Wallman

TO: Odetta S. Walker (WALKER_O) (WHO)

READ: 25-MAR-1996 15:21:21.07

TEXT:

as always, available but not anxious.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 25-MAR-1996 17:35:42.54

SUBJECT: hatch bill

TO: Tracey E. Thornton (THORNTON_T) (WHO)

READ: 25-MAR-1996 17:47:55.75

TEXT:

What is likely to happen -- and when -- to the products bill that Hatch introduced?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:25-MAR-1996 10:55:00.00

SUBJECT: Receipt Notification

TO: JOHNSON_L (WHO)

READ:25-MAR-1996 11:56:24.71

TEXT:

This is a Read Receipt Notification for:

Message Title: Campaign Lobbying reform form letter
Addressee: KAGAN_E
Date Sent: 25-Mar-1996 10:37am
Date Read: 25-Mar-1996 10:55am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 25-MAR-1996 09:54:40.92

SUBJECT: larry tribe

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ: NOT READ

TEXT:

wants to know whether he should call or write or both. We agreed that I'd ask you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:25-MAR-1996 12:02:00.00

SUBJECT: Receipt Notification

TO: JONES_RE (OMB)

READ:25-MAR-1996 12:12:40.49

TEXT:

This is a Read Receipt Notification for:

Message Title: State Department letter on Counter Terrorism Bill

Addressee: KAGAN_E

Date Sent: 25-Mar-1996 12:01pm

Date Read: 25-Mar-1996 12:02pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 25-MAR-1996 12:58:00.91

SUBJECT: headwaters

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ: 25-MAR-1996 13:03:15.07

TEXT:

tomorrow at 11 is fine.

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: KAGAN_E@A1@CD

CREATION DATE/TIME: 25-MAR-1996 14:45:00.00

SUBJECT: RE: SAT NIGHT

TO: CN=Kumiki S. Gibson/O=OVP (CN=Kumiki S. Gibson/O=OVP@OVP@LNGATE@EOPMRX)
READ: NOT READ

CC: WHALEN_K (WHALEN_K@A1@CD) (WHO)
READ: 25-MAR-1996 14:46:29.81

CC: KRISLOV_M (KRISLOV_M@A1@CD) (WHO)
READ: 25-MAR-1996 14:46:41.46

CC: CN=Sheryll Cashin/O=OVP (CN=Sheryll Cashin/O=OVP@OVP@LNGATE@EOPMRX)
READ: NOT READ

CC: WARNATH_S (WARNATH_S@A1@CD) (OPD)
READ: 25-MAR-1996 14:57:38.68

TEXT:

I vote for AVs.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-MAR-1996 13:02:38.44

SUBJECT: products veto statement

TO: Bruce R. Lindsey (LINDSEY_B) (WHO)

READ:26-MAR-1996 17:12:01.29

TEXT:

Jack suggested that I circulate the draft veto statement (conspicuously marked "draft") to people who do communications, press, public liaison etc. so that they could read and use the "hypothetical cases" we use. Is this OK with you?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-MAR-1996 12:44:37.45

SUBJECT: see attached

TO: Bruce R. Lindsey (LINDSEY_B) (WHO)

READ:26-MAR-1996 17:11:27.98

TEXT:

I'm sending you a message I just got from OMB. I've talked to people in John Schmidt's office and OLC. They're trying to figure out who the definitional section covers and whether it raises any problems.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:26-MAR-1996 12:25:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Ingrid M. Schroeder

ATT SUBJECT: S. 1618 -

ATT TO: Elena Kagan (KAGAN_E)

TEXT:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE:26-MAR-1996 12:12:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Charles S. Konigsberg

ATT SUBJECT: S. 1618--damages caps for charities

ATT TO: Ingrid M. Schroeder (SCHROEDER_I)

ATT CC: James J. Jukes (JUKES_J)

ATT CC: James C. Murr (MURR_J)

ATT CC: Jeffrey A. Weinberg (WEINBERG_J)

ATT CC: Sally Katzen (KATZEN_S)

ATT CC: Robert E. Litan (LITAN_R)

ATT CC: Charles E. Kieffer (KIEFFER_C)

ATT CC: Lisa Kountoupes (KOUNTOUPES_L)

TEXT:

If the bill does come up, it will be on very short notice, i.e. it can be brought up as soon as an agreement is reached among interested Senators. Therefore, we should be clearing a SAP today. Please make sure that all of the interested players have actually looked at this bill; it's not clear to me that our opposition to the Product Liability bill should necessarily translate into opposition to this bill.

===== END ATTACHMENT 2 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 27-MAR-1996 11:33:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN_P (OPD)

READ: 27-MAR-1996 11:36:11.21

TEXT:

This is a Read Receipt Notification for:

Message Title: common cause meeting
Addressee: KAGAN_E
Date Sent: 27-Mar-1996 11:28am
Date Read: 27-Mar-1996 11:33am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 27-MAR-1996 11:34:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN_P (OPD)

READ: 27-MAR-1996 11:38:26.35

TEXT:

This is a Read Receipt Notification for:

Message Title: Hill Meetings
Addressee: KAGAN_E
Date Sent: 27-Mar-1996 11:30am
Date Read: 27-Mar-1996 11:34am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 28-MAR-1996 07:25:56.38

SUBJECT: RE: trees - why do we need them?

TO: Dinah Bear (BEAR_D) (CEQ)

READ: 28-MAR-1996 08:00:42.11

TEXT:

sorry to bother you with this, but I don't think i got the latest draft of the hatfield letter. was a decision made not to mark up his language? why?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-MAR-1996 16:49:12.73

SUBJECT: meeting

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:28-MAR-1996 18:00:53.50

TEXT:

durand wants to bring another lawyer, bane, and someone in bane's shop. i said fine. she's checking bane's schedule for a time on Teuesday or Thursday afternoon.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. email	Elena Kagan to Deborah Fine. Subject: Re: Change in Meeting (1 page)	03/28/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[3/11/1996 - 3/29/1996]

2009-1006-F
ke777

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-MAR-1996 18:02:27.54

SUBJECT: RE: CHANGE IN MEETING

TO: Dorothy L. Karayannis (KARAYANNIS_D) (OPD)
READ:29-MAR-1996 13:43:05.68

CC: Deborah L. Fine (FINE_D) (OPD)
READ:28-MAR-1996 18:02:33.43

CC: Jennifer L. Klein (KLEIN_J) (OPD)
READ:28-MAR-1996 18:02:53.80

CC: Jeremy D. Benami (BENAMI_J) (WHO)
READ:28-MAR-1996 18:07:30.75

TEXT:
after 2:00.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-MAR-1996 07:27:40.32

SUBJECT: meeting

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:28-MAR-1996 10:12:20.47

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ:28-MAR-1996 08:55:06.37

TO: Deborah L. Fine (FINE_D) (OPD)
READ:28-MAR-1996 09:25:38.73

TO: Betsy Myers (MYERS_B) (WHO)
READ:29-MAR-1996 10:05:06.33

TO: Dorothy L. Karayannis (KARAYANNIS_D) (OPD)
READ:28-MAR-1996 08:26:38.74

TEXT:

Anytime Wednesday after 11:30 is fine with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-MAR-1996 17:26:09.38

SUBJECT: RE: CHANGE IN MEETING

TO: Dorothy L. Karayannis (KARAYANNIS_D) (OPD)

READ:28-MAR-1996 17:51:02.03

CC: Deborah L. Fine (FINE_D) (OPD)

READ:28-MAR-1996 17:26:16.63

CC: Jennifer L. Klein (KLEIN_J) (OPD)

READ:28-MAR-1996 17:27:29.84

CC: Jeremy D. Benami (BENAMI_J) (WHO)

READ:28-MAR-1996 17:41:55.45

TEXT:

fine with me

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-MAR-1996 13:54:34.39

SUBJECT: RE: CHANGE IN MEETING

TO: Deborah L. Fine (FINE_D) (OPD)

READ:28-MAR-1996 13:54:38.94

CC: Jeremy D. Benami (BENAMI_J) (WHO)

READ:28-MAR-1996 16:46:29.69

CC: Jennifer L. Klein (KLEIN_J) (OPD)

READ:28-MAR-1996 14:24:21.46

CC: Dorothy L. Karayannis (KARAYANNIS_D) (OPD)

READ:28-MAR-1996 15:33:51.40

TEXT:

Late Tuesday is fine with me.

ARMS Email System

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 10:22:28.39

SUBJECT: abortion statement

TO: Todd Stern (STERN_T) (WHO)

READ:29-MAR-1996 10:43:14.24

TEXT:

attached is a revised draft of the abortions statement responding to Jen's concerns.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:29-MAR-1996 10:21:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

Veto Message for H.R. 1833

I am returning without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill fails to protect women from serious health threats, as the Constitution and sound public policy require.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late

-term

abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non

-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. Medical conditions can develop at a stage in the pregnancy such that the use of this procedure becomes the best or the only feasible way of preserving the life or the serious health interests of the woman, including her ability to have children in the future. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

I cannot sign H.R. 1833, as drafted, because it fails to protect women in such dire circumstances -- because by treating doctors who use the procedure in these tragic cases as criminals,

the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

I earlier proposed to Congress that it pass appropriate legislation regarding this procedure. I told Congress that I would support H.R. 1833 if it were amended to make clear that the

prohibition did not apply to situations in which the selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse health consequences to the woman. A bill amended in this way would have struck a proper balance, reserving this troubling procedure for those rare circumstances where it is necessary.

Congress chose not to take this sensible and constitutionally appropriate path, instead either ignoring or trivializing concerns about protecting women from serious health risks. As a result of this Congressional indifference to women's health and safety, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 08:11:27.15

SUBJECT: doj line item veto language

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:29-MAR-1996 10:03:46.43

TEXT:

I never knew we were originalists!

It's fine. If it will make Walter happy, let's include it.

(Though if he thinks it will matter to the Court, he is of course being ridiculous.)