

1 OFFICE OF GENERAL COUNSEL
2 U.S. HOUSE OF REPRESENTATIVES
3 5140 O’Neill House Office Building
4 Washington, D.C. 20515

5 SHER TREMONTE LLP
6 90 Broad Street, 23rd Floor
7 New York, New York 10004

8 ARNOLD & PORTER
9 601 Massachusetts Ave, NW
10 Washington, D.C. 20001

11 Counsel for the Congressional Defendants

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 JOHN C. EASTMAN

16 Plaintiff,

17 vs.

18 BENNIE G. THOMPSON, *et al.*,

19 Defendants.

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

NOTICE

20
21 In advance of the status conference scheduled for Monday, February 14, the Select
22 Committee submits this Notice to bring two issues to the Court’s attention. *First*, the
23 Select Committee requests that Plaintiff promptly provide evidence of the relevant
24 attorney-client relationships—and any applicable joint defense or common interest
25 agreements—between the parties on the communications over which Plaintiff has
26 asserted privileges. *Second*, the Select Committee respectfully proposes that the Court

1 set an expedited schedule for briefing Plaintiff's privilege claims for the privilege logs.

2 1. The Select Committee requests that, by February 15, 2022, Plaintiff provide
3 the Select Committee with evidence of the relevant attorney-client relationships—in the
4 form of engagement letters, retainer agreements, and any applicable joint defense or
5 common interest agreements—between the parties on the communications over which
6 Plaintiff has asserted privilege. The privilege logs Plaintiff has produced include the
7 assertion of both attorney-client and attorney work product privilege protection over
8 communications with numerous individuals whose affiliation with former President
9 Trump and the Trump campaign is quite unclear. Critically, the scope and timing of any
10 attorney-client relationship(s) between *Plaintiff* and the Trump Campaign (or Donald
11 Trump personally) remains uncertain.
12
13
14

15 On February 3, 2022, the Select Committee specifically requested that Plaintiff
16 produce any engagement letter or other writing clarifying the scope of his representation
17 of former President Trump or his campaign. On February 8, 2022, the Select Committee
18 again requested that Plaintiff produce (1) any engagement letter(s), retainer agreement(s)
19 or other documents reflecting the scope of Plaintiff's engagement by the former President
20 or his campaign committee; and (2) any applicable joint defense or common interest
21 agreements with the parties on the communications over which Plaintiff has claimed
22 privilege. Plaintiff has not responded to those requests. This information appears to be
23 necessary for this Court to evaluate Plaintiff's privilege claims. Indeed, without this
24 information being made available to the Select Committee and the Court, it is difficult to
25
26
27
28

1 see how Plaintiff can meet his burden of establishing that the privileges he has broadly
2 claimed actually do apply.

3 2. The Select Committee also respectfully requests that, at Monday’s status
4 hearing, the Court consider setting a briefing schedule to address Plaintiff’s privilege
5 claims contained on the privilege logs. The Select Committee urgently needs the
6 documents at issue in these privilege logs to inform its investigation, including upcoming
7 depositions and hearings, as well as forthcoming reports. *See* H. Res. 503, 117th Cong.
8 (2021). Delaying briefing until Plaintiff completes his review will substantially hinder
9 that investigation.
10
11

12 The Select Committee’s investigation has developed evidence that Plaintiff was a
13 central figure in efforts to overturn the 2020 Presidential election, including efforts
14 directed at state legislators throughout the post-election period and at the Vice President
15 in connection with the certification of the electoral vote on January 6. The documents at
16 issue are thus crucial to the Select Committee’s investigation into the “interference with
17 the peaceful transfer of power,” including the “influencing factors that fomented” the
18 attack on American democracy. *Id.* The Select Committee’s urgent need for resolution
19 of the privilege issues is heightened by the fact that Plaintiff has broadly claimed
20 privileges over a vast swath of documents—many of which appear to be critical to the
21 Select Committee’s investigation—contrary to governing law. And many of Plaintiff’s
22 descriptions fall far short of the requirements in Federal Rule of Civil Procedure
23 26(b)(5)(A).
24
25
26
27
28

1 By way of illustration, on the February 1 log, the description for Chapman004545-
2 46 is “Comm re filing”; for Chapman004794-98 is “Comm re legal arguments”; for
3 Chapman004539 is “Comm with co-counsel”; and for Chapman004541-44 is
4 “Attachment re filing.” On the February 3 log, the description for Chapman006592 is
5 “comm re proposal to consider”; for Chapman007498-502 (and many others) is simply
6 “Attachment”; and for Chapman006591 is “comm re legal proposals.”
7
8

9 Prompt resolution of Plaintiff’s extremely broad privilege claims is crucial to the
10 Select Committee’s rapidly proceeding investigation. Indeed, many of the Select
11 Committee’s objections (both global and specific) apply to all or many of the documents
12 over which Plaintiff has claimed privilege, and it would therefore greatly streamline the
13 review process to have the Court’s guidance on those issues going forward. The Select
14 Committee will therefore suggest at Monday’s status conference that this Court should
15 resolve the privilege claims. The Select Committee proposes the following briefing
16 schedule:
17
18

19 Monday, February 21, 2022: Select Committee’s opening brief

20 Monday, February 28, 2022: Plaintiff’s response brief

21 Thursday, March 3, 2022: Select Committee’s reply brief
22
23
24
25
26
27
28

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
26
27
28

Respectfully submitted,

/s/ Douglas N. Letter

DOUGLAS N. LETTER

General Counsel

TODD B. TATELMAN

Principal Deputy General Counsel

ERIC R. COLUMBUS

Special Litigation Counsel

STACIE M. FAHSEL

Associate General Counsel

OFFICE OF GENERAL COUNSEL

U.S. HOUSE OF

REPRESENTATIVES

5140 O’Neill House Office Building

Washington, D.C. 20515

(202) 225-9700

Douglas.Letter@mail.house.gov

-and-

SHER TREMONTE LLP

Justin M. Sher

Michael Tremonte

Noam Biale

Maya Brodziak

Kathryn E. Ghotbi

90 Broad Street, 23rd Floor

New York, New York 10004

(212) 202-2600

JSher@shertremonte.com

MTremonte@shertremonte.com

NBiale@shertremonte.com

MBrodziak@shertremonte.com

KGhotbi@shertremonte.com

-and-

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
26
27
28

ARNOLD & PORTER
John A. Freedman
Paul Fishman
Amy Jeffress
601 Massachusetts Ave, NW
Washington, D.C. 20001
(202) 942-5000
John.Freedman@arnoldporter.com
Paul.Fishman@arnoldporter.com
Amy.Jeffress@arnoldporter.com

Counsel for Congressional Defendants

Dated: February 11, 2022

CERTIFICATE OF SERVICE

WASHINGTON, DISTRICT OF COLUMBIA

I am employed in the aforesaid county, District of Columbia; I am over the age of 18 years and not a party to the within action; my business address is:

OFFICE OF GENERAL COUNSEL
U.S. HOUSE OF REPRESENTATIVES
5140 O’Neill House Office Building
Washington, D.C. 20515

On February 11, 2022, I served the **NOTICE** on the interested parties in this action:

Anthony T. Caso
Constitutional Counsel Group
174 W Lincoln Ave #620
Anaheim, CA 92805-2901
atcaso@ccg1776.com

Charles Burnham
Burnham & Gorokhov PLLC
1424 K Street NW, Suite 500
Washington, DC 20005
charles@burnhamgorokhov.com

Attorneys for Plaintiff John C. Eastman

(BY E-MAIL OR ELECTRONIC TRANSMISSION)

The document was served on the following via The United States District Court – Central District’s CM/ECF electronic transfer system which generates a Notice of Electronic Filing upon the parties, the assigned judge, and any registered user in the case:

(FEDERAL) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed at the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 11, 2022 here, at Bethesda, Maryland.

/s/ Douglas N. Letter