

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PETER P. STRZOK,

Plaintiff,

v.

ATTORNEY GENERAL MERRICK B.
GARLAND, in his official capacity, et al.,

Defendants.

Civil Action No. 19-2367 (ABJ)

LISA PAGE,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

Civil Action No. 19-3675 (TSC)

ATTORNEY GENERAL MERRICK
GARLAND, in his official capacity, UNITED
STATES DEPARTMENT OF JUSTICE, FBI
DIRECTOR CHRISTOPHER A. WRAY, in his
official capacity, FEDERAL BUREAU OF
INVESTIGATION,

Movants,

v.

PETER P. STRZOK

IN RE SUBPOENA SERVED ON
DONALD J. TRUMP

Case No.: 1:22-mc-27 (ABJ)

**DECLARATION OF CHRISTOPHER M. LYNCH IN SUPPORT OF DEFENDANTS’
MOTION TO STAY DEPOSITION OF FORMER PRESIDENT DONALD TRUMP
PENDING PETITION FOR MANDAMUS AND/OR MOTION FOR
RECONSIDERATION**

I, Christopher M. Lynch, make the following Declaration pursuant to 28 U.S.C. § 1746, and state that under penalty of perjury the following is true and correct to the best of my knowledge and belief:

1. I am a Trial Attorney with the Federal Programs Branch of the Civil Division of the United States Department of Justice and counsel for Defendants in this matter.

2. Attached as Exhibit A is a true and correct copy of an email from Christopher MacColl, counsel for Mr. Strzok, to Michael Gaffney and copied to me and others, dated March 30, 2023.

3. Attached as Exhibit B is a true and correct copy of an email from Christopher MacColl, counsel for Mr. Strzok, to Michael Gaffney and copied to me and others, dated April 27, 2023.

4. Attached as Exhibit C is a true and correct copy of an email from Christopher MacColl, counsel for Mr. Strzok, to me and others, dated March 27, 2023.

5. Attached as Exhibit D is a true and correct copy of copy of an email from Christopher MacColl, counsel for Mr. Strzok, to me and others, dated April 26, 2023.

Executed this 11th day of May, 2023.

/s/ Christopher M. Lynch
Christopher M. Lynch

Exhibit A

Lynch, Christopher M. (CIV)

From: MacColl, Christopher <CMacColl@zuckerman.com>
Sent: Thursday, March 30, 2023 11:18 PM
To: Gaffney, Michael J. (CIV)
Cc: Humphreys, Bradley (CIV); Lynch, Christopher M. (CIV); Abbuhl, Joshua (CIV); Goelman, Aitan; salzman@hellerhuron.com; Konkel, Kaitlin; Katerberg, Robert J.; Jeffress, Amy
Subject: [EXTERNAL] Re: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues
Attachments: image001.png

Respectfully, Mike, we are entitled to set the order and to set the date for the third party depositions we notice. We noticed former President Trump's deposition sixteen months ago, and we would like to proceed with it. If, as the Department of Justice has suggested, it intends to petition for a writ of mandamus with respect to Judge Jackson's order governing President Trump's deposition, we would like that to happen sooner rather than later.

I reiterate our request for your availability in late April and early May. We will certainly consider your availability if you provide it.

I am sure we are all familiar with President Trump's current employment situation and ample resources.

Chris

On Mar 30, 2023, at 10:09 PM, Gaffney, Michael J. (CIV) <Michael.J.Gaffney@usdoj.gov> wrote:

Chris,

Thanks for following up. On your question about deposition scheduling, please contact Alina Habba at ahabba@habbalaw.com<mailto:ahabba@habbalaw.com>, who is the representative we referred to in our March 24 filing. We think it is premature to discuss our availability for former President Trump's deposition since we expect his schedule will more likely be the driving factor on when the deposition takes place. After you speak with Mr. Trump's representative and understand his availability, please let us know and we will then do our best to also be available as well. Note also that it is Defendants' position that Director Wray should be deposed before Mr. Trump. So please let us know your thoughts on when you would like to take Director Wray's deposition and we will consult with the FBI about his availability.

We will follow up on your other questions.

Mike

From: MacColl, Christopher <CMacColl@zuckerman.com>
Sent: Thursday, March 30, 2023 10:23 AM
To: Humphreys, Bradley (CIV) <Bradley.Humphreys@usdoj.gov>; Lynch, Christopher M. (CIV) <Christopher.M.Lynch@usdoj.gov>; Abbuhl, Joshua (CIV) <Joshua.Abbuhl@usdoj.gov>; Gaffney, Michael J. (CIV) <Michael.J.Gaffney@usdoj.gov>
Cc: Goelman, Aitan <AGoelman@zuckerman.com>; salzman@hellerhuron.com; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Katerberg, Robert J. <Robert.Katerberg@arnoldporter.com>; Jeffress, Amy <Amy.Jeffress@arnoldporter.com>
Subject: [EXTERNAL] RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Brad, Mike, Chris, Josh,

Wanted to follow up on the below.

If you are not able to respond to all the requests at the moment, please let us know days on which Defendants would be available to attend a two hour deposition of former President Trump. We would like to move forward with an amended subpoena tomorrow.

Thanks,
Chris

From: MacColl, Christopher
Sent: Monday, March 27, 2023 9:17 AM
To: 'Humphreys, Bradley (CIV)' <Bradley.Humphreys@usdoj.gov<mailto:Bradley.Humphreys@usdoj.gov>>; Lynch, Christopher M. (CIV) <Christopher.M.Lynch@usdoj.gov<mailto:Christopher.M.Lynch@usdoj.gov>>; Abbuhl, Joshua (CIV) <Joshua.Abbuhl@usdoj.gov<mailto:Joshua.Abbuhl@usdoj.gov>>; Gaffney, Michael J. (CIV) <Michael.J.Gaffney@usdoj.gov<mailto:Michael.J.Gaffney@usdoj.gov>>
Cc: Goelman, Aitan <AGoelman@zuckerman.com<mailto:AGoelman@zuckerman.com>>; 'salzman@hellerhurton.com' <salzman@hellerhurton.com<mailto:salzman@hellerhurton.com>>; 'Konkel, Kaitlin' <Kaitlin.Konkel@arnoldporter.com<mailto:Kaitlin.Konkel@arnoldporter.com>>; Katerberg, Robert J. <Robert.Katerberg@arnoldporter.com<mailto:Robert.Katerberg@arnoldporter.com>>; Jeffress, Amy <Amy.Jeffress@arnoldporter.com<mailto:Amy.Jeffress@arnoldporter.com>>
Subject: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Brad, Mike, Chris, Josh,

Hope you all had a nice weekend.

In light of the decision to not assert executive privileges, please let us know what dates would work for President Trump's deposition. We would like to schedule it for late April or early May.

We will need to coordinate with counsel for President Trump as well. Can you let us know which of his attorneys provided the position regarding the PCP?

Also, we would appreciate Defendants producing the PCP document discussed at Mr. School's deposition and any other documents related to meetings or communications with President Trump that have been redacted or withheld due to executive privileges. I have seen some redactions for "INFORMATION ORIGINATING WITH ANOTHER GOVERNMENT AGENCY", and I'm not sure whether that's indicative of a code selection error (N instead of M) or reflects an executive privilege assertion. I am hopeful that Friday's notice also resolves the question of whether to assert privilege over the two notes identified by General Kelly. Please let us know.

Thanks,
Chris

<<https://protect2.fireeye.com/v1/url?k=8b7d2c52-d4e615e1-8b7a08b7-0cc47adc5e1a-e57cdd5a9fa30fc4&q=1&e=15c41e5d-a193-4cc0-b32c-77567fc990fe&u=http%3A%2F%2Fwww.zuckerman.com%2F>>
<image001.png>

Christopher MacColl
Zuckerman Spaeder LLP
CMacColl@zuckerman.com<mailto:CMacColl@zuckerman.com>

1800 M STREET NW, SUITE 1000 • WASHINGTON, DC 20036-5807
202.778.1849 direct • 207.632.8758 mobile • 202.822.8106 fax

► Download vCard<https://protect2.fireeye.com/v1/url?k=a70ed503-f895ecb0-a709f1e6-0cc47adc5e1a-997ae75f98af57c6&q=1&e=15c41e5d-a193-4cc0-b32c-77567fc990fe&u=https%3A%2F%2Fwww.zuckerman.com%2Fvcard%2FChristopher_MacColl%2F> |
zuckerman.com<<https://protect2.fireeye.com/v1/url?k=bcf156db-e36a6f97-bcf6723e-0cc47adca7cc-e3983f4c0db60e07&q=1&e=63d697d4-e49a-4ab9-a0db-e8f4757c3a63&u=http%3A%2F%2Fwww.zuckerman.com%2F>>

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Exhibit B

Lynch, Christopher M. (CIV)

From: MacColl, Christopher <CMacColl@zuckerman.com>
Sent: Thursday, April 27, 2023 11:07 AM
To: Gaffney, Michael J. (CIV)
Cc: Humphreys, Bradley (CIV); Lynch, Christopher M. (CIV); Abbuhl, Joshua (CIV); Goelman, Aitan; salzman@hellerhuron.com; Konkel, Kaitlin; Katerberg, Robert J.; Jeffress, Amy
Subject: [EXTERNAL] RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Mike,

Now that we have a tentative date for Scott Schools' deposition and seem to be making some progress on a date for President Trump's deposition, I wanted to follow up regarding dates for Director Wray's deposition. For the Strzok team, the last two weeks of May or early June would likely be best.

Can you follow up with the FBI and let us know what would work for the Director.

Thanks,
Chris

From: MacColl, Christopher
Sent: Wednesday, April 26, 2023 9:57 AM
To: 'Gaffney, Michael J. (CIV)' <Michael.J.Gaffney@usdoj.gov>
Cc: 'Humphreys, Bradley (CIV)' <Bradley.Humphreys@usdoj.gov>; 'Lynch, Christopher M. (CIV)' <Christopher.M.Lynch@usdoj.gov>; 'Abbuhl, Joshua (CIV)' <Joshua.Abbuhl@usdoj.gov>; Goelman, Aitan <AGoelman@zuckerman.com>; 'salzman@hellerhuron.com' <salzman@hellerhuron.com>; 'Konkel, Kaitlin' <Kaitlin.Konkel@arnoldporter.com>; 'Katerberg, Robert J.' <Robert.Katerberg@arnoldporter.com>; 'Jeffress, Amy' <Amy.Jeffress@arnoldporter.com>
Subject: RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Mike,

We've been emailing Ms. Habba and two other lawyers for President Trump, Michael Madaio with Ms. Habba's firm and David Warrington of The Dhillon Law Group. Unfortunately, notwithstanding an April 5 call with Ms. Habba on which she said April 28 did not work, discussed potential dates with us that would likely work, and indicated she would get back with the former President's availability in a day or so, no indication of President Trump's availability has been provided. My understanding from the emails is that David Warrington has taken over as the primary representative for President Trump on this matter.

Can you let me know how the Defendants are planning to proceed? We want to be respectful of everyone's time and commitments, but after eighteen months, we're also frustrated by the continued delay.

Chris

From: MacColl, Christopher
Sent: Friday, March 31, 2023 3:20 PM
To: 'Gaffney, Michael J. (CIV)' <Michael.J.Gaffney@usdoj.gov>
Cc: 'Humphreys, Bradley (CIV)' <Bradley.Humphreys@usdoj.gov>; 'Lynch, Christopher M. (CIV)' <Christopher.M.Lynch@usdoj.gov>; 'Abbuhl, Joshua (CIV)' <Joshua.Abbuhl@usdoj.gov>; Goelman, Aitan

<AGoelman@zuckerman.com>; 'salzman@hellerhuron.com' <salzman@hellerhuron.com>; 'Konkel, Kaitlin' <Kaitlin.Konkel@arnoldporter.com>; 'Katerberg, Robert J.' <Robert.Katerberg@arnoldporter.com>; 'Jeffress, Amy' <Amy.Jeffress@arnoldporter.com>

Subject: RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Mike,

On the subject of President Trump's deposition, we're going to provide Ms. Habba with a revised noticed date of April 28, 2023, on the understanding that that date would work for Defendants, both Plaintiffs, and their respective counsel. Of course, we'll confer with President Trump's counsel on the logistics, potentially including further revision of the date.

Thanks,
Chris

-----Original Message-----

From: MacColl, Christopher

Sent: Friday, March 31, 2023 11:37 AM

To: 'Gaffney, Michael J. (CIV)' <Michael.J.Gaffney@usdoj.gov>

Cc: Humphreys, Bradley (CIV) <Bradley.Humphreys@usdoj.gov>; Lynch, Christopher M. (CIV)

<Christopher.M.Lynch@usdoj.gov>; Abbuhl, Joshua (CIV) <Joshua.Abbuhl@usdoj.gov>; Goelman, Aitan

<AGoelman@zuckerman.com>; salzman@hellerhuron.com; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>;

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Subject: RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Thanks, Mike.

On the other items, do you have a response for us about the two Kelly documents and the other executive privilege documents?

We would also like to reopen Scott Schools' deposition in light of the change in position regarding executive privilege. Can you let us know what dates would work? The time required would certainly be relatively limited.

Chris

-----Original Message-----

From: Gaffney, Michael J. (CIV) <Michael.J.Gaffney@usdoj.gov>

Sent: Friday, March 31, 2023 9:19 AM

To: MacColl, Christopher <CMacColl@zuckerman.com>

Cc: Humphreys, Bradley (CIV) <Bradley.Humphreys@usdoj.gov>; Lynch, Christopher M. (CIV)

<Christopher.M.Lynch@usdoj.gov>; Abbuhl, Joshua (CIV) <Joshua.Abbuhl@usdoj.gov>; Goelman, Aitan

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Katerberg, Robert J. <Robert.Katerberg@arnoldporter.com>; Jeffress, Amy <Amy.Jeffress@arnoldporter.com>

Subject: RE: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Chris,

As I stated last night, we don't foresee any scheduling issues being an issue for the government. After you speak with Mr. Trump's representative and understand his availability, please let us know the available dates.

Mike

-----Original Message-----

From: MacColl, Christopher <CMacColl@zuckerman.com>

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I reiterate our request for your availability in late April and early May. We will certainly consider your availability if you provide it.

I am sure we are all familiar with President Trump's current employment situation and ample resources.

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Thanks for following up. On your question about deposition scheduling, please contact Alina Habba at ahabba@habbalaw.com<mailto:ahabba@habbalaw.com>, who is the representative we referred to in our March 24 filing. We think it is premature to discuss our availability for former President Trump's deposition since we expect his schedule will more likely be the driving factor on when the deposition takes place. After you speak with Mr. Trump's representative and understand his availability, please let us know and we will then do our best to also be available as well. Note also that it is Defendants' position that Director Wray should be deposed before Mr. Trump. So please let us know your thoughts on when you would like to take Director Wray's deposition and we will consult with the FBI about his availability.

We will follow up on your other questions.

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Cc: Goelman, Aitan <AGoelman@zuckerman.com<mailto:AGoelman@zuckerman.com>>; 'salzman@hellerhuron.com' <salzman@hellerhuron.com<mailto:salzman@hellerhuron.com>>; 'Konkel, Kaitlin' <Kaitlin.Konkel@arnoldporter.com<mailto:Kaitlin.Konkel@arnoldporter.com>>; Katerberg, Robert J. <Robert.Katerberg@arnoldporter.com<mailto:Robert.Katerberg@arnoldporter.com>>; Jeffress, Amy <Amy.Jeffress@arnoldporter.com<mailto:Amy.Jeffress@arnoldporter.com>>
Subject: Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

Brad, Mike, Chris, Josh,

Hope you all had a nice weekend.

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We will need to coordinate with counsel for President Trump as well. Can you let us know which of his attorneys provided the position regarding the PCP?

Also, we would appreciate Defendants producing the PCP document discussed at Mr. School's deposition and any other documents related to meetings or communications with President Trump that have been redacted or withheld due to executive privileges. I have seen some redactions for "INFORMATION ORIGINATING WITH ANOTHER GOVERNMENT AGENCY", and I'm not sure whether that's indicative of a code selection error (N instead of M) or reflects an executive privilege assertion. I am hopeful that Friday's notice also resolves the question of whether to assert privilege over the two notes identified by General Kelly. Please let us know.

Thanks,
Chris

<<https://protect2.fireeye.com/v1/url?k=8b7d2c52-d4e615e1-8b7a08b7-0cc47adc5e1a-e57cdd5a9fa30fc4&q=1&e=15c41e5d-a193-4cc0-b32c-77567fc990fe&u=http%3A%2F%2Fwww.zuckerman.com%2F%2Fimage001.png>>

Christopher MacColl
Zuckerman Spaeder LLP
CMacColl@zuckerman.com<mailto:CMacColl@zuckerman.com>

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Exhibit C

Lynch, Christopher M. (CIV)

From: MacColl, Christopher <CMacColl@zuckerman.com>
Sent: Monday, March 27, 2023 9:17 AM
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Cc: Goelman, Aitan; salzman@hellerhuron.com; Konkel, Kaitlin; Katerberg, Robert J.; Jeffress, Amy
Subject: [EXTERNAL] Strzok v. Garland / Page v. DOJ - Deposition of Pres. Trump / Executive Privilege Issues

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Chris



Christopher MacColl
Zuckerman Spaeder LLP
CMacColl@zuckerman.com

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Exhibit D

Lynch, Christopher M. (CIV)

From: MacColl, Christopher <CMacColl@zuckerman.com>
Sent: Wednesday, April 26, 2023 1:52 PM
To: Lynch, Christopher M. (CIV); Konkel, Kaitlin; Jeffress, Amy; Katerberg, Robert J.; Goelman, Aitan; salzman@hellerhuron.com
Cc: Humphreys, Bradley (CIV); Gaffney, Michael J. (CIV); Abbuhl, Joshua (CIV)
Subject: [EXTERNAL] RE: Strzok v. Garland & Page v. DOJ

Thanks, Chris. We look forward to your email regarding your team's availability for May 19. Four quick responses below:

First, while the parties agreed that discovery *unrelated to the executive privilege issues* would close on April 28, we are willing to agree to extend the deadline to serve amended interrogatory responses until June 2, provided that extension is reciprocal. We may update certain fact interrogatories (such as those related to income, attorneys fees, media engagements, and the like) on that date as well. This new date would be limited to supplemental interrogatory responses. We are not agreeing to extend the April 28 Privacy Act close-of-discovery deadline.

Second, while discovery is closing on the Privacy Act portion, Mr. Strzok has continued diligently pursuing discovery from General Kelly and has reserved his right to pursue discovery that was delayed by the Defendants' assertions of the Presidential Communications Privilege. Such discovery is not subject to the April 28 deadline. We have conveyed this point to you several times.

Third, Mr. Warrington got back to me this morning, and I expect we will work towards a date for President Trump soon. I certainly understand that the Defendants do not control President Trump's schedule. I wanted to be mindful of the fact that we had noticed his deposition for April 28. It does not appear there is a need for you all to be in New York on Friday, based on the email that Mr. Warrington sent me this morning.

Fourth, I note that we would appreciate a copy of the offense codes and penalty guidelines. Those seem to be indisputably relevant and readily available to the FBI. I sent an email to you noting that request on Monday.

Thanks,
Chris

From: Lynch, Christopher M. (CIV) <Christopher.M.Lynch@usdoj.gov>
Sent: Wednesday, April 26, 2023 12:35 PM
To: Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; MacColl, Christopher <CMacColl@zuckerman.com>; Jeffress, Amy <Amy.Jeffress@arnoldporter.com>; Katerberg, Robert J. <Robert.Katerberg@arnoldporter.com>; Goelman, Aitan <AGoelman@zuckerman.com>; salzman@hellerhuron.com
Cc: Humphreys, Bradley (CIV) <Bradley.Humphreys@usdoj.gov>; Gaffney, Michael J. (CIV) <Michael.J.Gaffney@usdoj.gov>; Abbuhl, Joshua (CIV) <Joshua.Abbuhl@usdoj.gov>
Subject: Strzok v. Garland & Page v. DOJ

Chris and Kaitlin,

We write regarding the timing for responding to contention interrogatories and other scheduling issues.

We previously submitted competing proposals for a deadline to respond to contention interrogatories in a Joint Status Report, but the court has not issued an order pursuant to that report. Both of the parties' proposals were tied to the completion of fact discovery (other than the depositions of Mr. Trump and Director Wray). Although discovery (other

than the depositions of Mr. Trump and Director Wray) is now otherwise closed, the court has permitted Plaintiffs to reopen Mr. Schools's deposition for a limited amount of time in the coming weeks. Accordingly, Defendants intend to serve any supplemental responses to Plaintiffs' contention interrogatories within two weeks of the conclusion of Mr. Schools's deposition.

With regard to the timing of the remainder of Mr. Schools's deposition, we have a few team members out this week, but we have checked with Mr. Schools about his availability, and it looks like May 19 will work on our end. We will confirm at the start of next week when our full team has returned to the office.

Finally, in response to Chris's email this morning about Mr. Trump's deposition, as we have made clear on multiple occasions, "[t]he Department of Justice represents Defendants in [this] litigation (the Department of Justice, the FBI, and the Attorney General and FBI Director in their official capacities) and does not represent the former President in his personal capacity." Mem. Supp. Mtn. to Quash at 1 n.1. We do not have insight into or control over his schedule.

Best,
Chris

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