

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

CONRAD SMITH, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

No. 1:21-cv-02265-APM, consolidated with
No. 1:21-cv-400-APM

JOINT CASE STATUS REPORT

Pursuant to the Court’s June 9, 2024 Minute Order, Plaintiffs Conrad Smith, Danny McElroy, Byron Evans, Governor Latson, Melissa Marshall, Michael Fortune, Jason DeRoche, and Reginald Cleveland (together, “Plaintiffs”), and Defendants Donald J. Trump For President, Inc., Make America Great Again PAC, Thomas E. Caldwell, Kelly Meggs, Zachary Rehl, Enrique Tarrío, and Joseph R. Biggs¹ submit this Joint Case Status Report regarding the status of discovery since the June 7, 2024 status conference.²

I. Party Discovery

A. Plaintiffs’ Discovery Requests

Plaintiffs served their Second Set of Requests for Production (“RFPs”) and Second Set of Interrogatories on Defendants Donald J. Trump For President, Inc. and Make America Great Again PAC (the “Campaign Entity Defendants”) on March 6, 2024. The Campaign Entity Defendants

¹ Plaintiffs sent a draft of this report to all appearing Defendants. Defendants Felipe Antonio Martinez, Derek Kinnison, Ethan Nordean, Erik Scott Warner, Alan Hostetter, Ronald Mele, Dominic J. Pezzola and Stewart Rhodes did not contribute to this report.

² The status of discovery as of June 3, 2024, is set forth in the Joint Case Status Report filed on that date. ECF No. 296.

served objections to Plaintiffs' second set of RFPs and interrogatories on April 18, but did not serve substantive responses at that time. Plaintiffs requested substantive responses from the Campaign Entity Defendants on April 18, May 7, and May 23. On May 30, the Campaign Entity Defendants responded that substantive responses were in progress with a substantial completion target of June 30. On July 17, the Campaign Entity Defendants and Plaintiffs met and conferred on the outstanding document requests, and the Campaign Entity indicated that the production is expected the following Monday, July 22. On June 6, the Campaign Entity Defendants served responses to Plaintiffs' second set of interrogatories.

On March 28, 2024, Plaintiffs served their Second Set of RFPs and First Set of Interrogatories on Defendants Caldwell, Meggs, Rehl, Mele, Biggs, and Tarrío. Defendant Caldwell served his responses and objections on May 13. Defendant Meggs served his responses and objections on June 3. Defendant Mele served his responses and objections on June 27. Defendants Tarrío and Biggs served their responses and objections on June 29. Defendant Rehl served responses and objections to the RFPs on June 12 and responses and objections to the interrogatories on July 16.

Plaintiffs are coordinating with the consolidated Plaintiffs' group in *Lee v. Trump*, 1:21-cv-400-APM, to conduct immunity discovery, and served Defendant Trump with initial discovery requests on April 25, 2024. On June 10, 2024, consolidated Plaintiffs received discovery requests from Defendant Donald Trump; consolidated Plaintiffs responded to these on July 10.

B. Plaintiffs' Third-Party Discovery Requests

Plaintiffs have received productions from third-parties Kylie and Amy Kremer, Jason Miller, Mark Meadows, Cassidy Hutchinson, Ivanka Trump, Jared Kushner, Michael Lindell, Donald J. Trump, Jr., Eric Trump, Lara Trump, Kimberly Guilfoyle, Christina Bobb, Jim Jordan, Kevin McCarthy, Kayleigh McEnany, Bill Stepien, Save America PAC, the Department of Defense, the Department of Homeland Security, Katrina Pierson, Tim Murtaugh, and Justin Clark.

Plaintiffs served Rudolph Giuliani with a subpoena on April 26, 2024 at his residence in New York, New York, but have yet to receive any response from him. Plaintiffs contacted four attorneys representing him in other matters asking if they represent Mr. Giuliani here; each of them indicated they would not be representing him in this matter. As of the date of filing, Plaintiffs have received no responses or objections to the subpoena. Plaintiffs request leave from the Court to file a motion to compel Rudolph Giuliani's compliance with the subpoena in the Southern District of New York.

Plaintiffs sent a *Touhy* request with a subpoena to the National Archives and Records Administration ("NARA") on April 12, 2024. The Department of Justice responded on April 26, advising Plaintiffs to submit a special request for records under 44 U.S.C. § 2205(2)(a), the Presidential Records Act, which provides that presidential records may be made available "pursuant to subpoena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding." In its letter, the Department of Justice stated that NARA may release presidential records if it receives a final court order directing it to do so. At the June 6 status conference, Plaintiffs asked the Court for leave to file a motion for a court order to direct NARA to release these records. The Court directed Plaintiffs to meet and confer with NARA to discuss whether they would oppose a subpoena. On June 13, Plaintiffs met and conferred with the Department of Justice representative who responded to Plaintiffs' initial *Touhy* request to NARA. The Department of Justice representative stated that NARA takes no position on whether it will oppose the subpoena. It does not consider a subpoena to have been issued until it receives the final court order, which will initiate the process outlined in the Presidential Records Act. She instructed that pursuant to 44 U.S.C. § 2205(2)(a), the final order can simply state: "The Court orders that this subpoena has been issued." Once NARA receives the order and subpoena, it

will initiate its standard review process, which includes checking for documents and consulting President Biden and Defendant Trump as to whether either plans to exert claims of Executive Privilege over the documents. Therefore, Plaintiffs request leave from the Court to file a motion for a final order to begin this process.

C. Close of Fact Discovery

In light of substantial remaining merits discovery concerning parties and non-parties, including depositions, and mindful that merits discovery with Defendant Trump may not begin until after the close of immunity discovery on September 11, 2024, *see Lee v. Trump*, 21-cv-400-APM, ECF No. 109 (Apr. 29, 2024), and a decision on the immunity question by this court, Plaintiffs request an extension of the current September 27, 2024 close of fact discovery, to March 31, 2025. Plaintiffs reserve the right to request further extensions from the court as the case continues to develop. The Campaign Entity Defendants have indicated they have no objection to this extension of discovery.

D. Criminal Trial Exhibits

Plaintiffs have filed applications to obtain criminal trial exhibits in *United States v. Cua*, 1:21-cr-00107-RDM, *United States v. Egtvedt*, 1:21-cr-00177-CRC, *United States v. Nordean*, 1:21-cr-00175-TJK, *United States v. Rhodes*, 1:22-cr-00015-APM, *United States v. Hostetter et al.*, 1:21-cr-00392-RCL,³ *United States v. Minuta*, 22-cr-00015, and *United States v. Hostetter et al.*, 1:21-cr-00392-RCL.⁴ The applications were granted in *United States v. Cua*, 1:21-cr-00107-RDM, *United States v. Egtvedt*, 1:21-cr-00177-CRC, *United States v. Nordean*, 1:21-cr-00175-

³ This application was docketed as a separate, miscellaneous case, *In re Alan Hostetter, et al.*, 1:23-mc-00108-RCL. The application was only for exhibits from the bench trial held in July 2023.

⁴ This application was docketed as a separate, miscellaneous case, *In re Alan Hostetter et al.*, 1:24-mc-00075-RCL.

TJK, *United States v. Rhodes*, 1:22-cr-00015-APM, *United States v. Hostetter et al.*, 1:21-cr-00392-RCL, and *United States v. Minuta*, 22-cr-00015.

E. Defendants' Discovery Requests

Plaintiffs have made six productions of documents to Defendants, on August 1, 2023, September 21, 2023, October 19, 2023, December 4, 2023, February 26, 2024, and July 3, 2024. Plaintiffs reached substantial completion on July 3, 2024.

II. Other Issues with Individual Defendants

Plaintiffs and Defendant Russell Taylor have reached a settlement agreement. Defendant Taylor and Plaintiffs filed a joint stipulation of dismissal of the claims against Defendant Taylor on July 10, 2024. ECF No. 304.

Nick Smith has entered only a limited appearance on behalf of the *pro se* defendants Nordean, Martinez, and Kinnison and has instructed Plaintiffs to contact these defendants directly. Plaintiffs have also been contacted by Kinnison directly.

Plaintiffs are pursuing partial summary judgement on their claims against Defendants Nordean, Biggs, Rehl, Tarrío, Pezzola and Meggs. Plaintiffs' opening brief is due today, and Defendants responses are due August 19, 2024.

Dated: July 19, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 19, 2024, I served a copy of the foregoing filing on all parties of record by filing it with the Clerk of the Court through the CM/ECF system, which will provide electronic notice to all attorneys of record. Plaintiffs are serving the remaining Defendants via first class mail or other permitted means.

Dated: July 19, 2024

By: /s/ Joshua S. Margolin
Joshua S. Margolin