

Vaughn, Amanda (USADC)

From: Evan Corcoran <ecorcoran@silvermanthompson.com>
Sent: Thursday, December 16, 2021 12:21 PM
To: Vaughn, Amanda (USADC)
Cc: Gaston, Molly (USADC); Cooney, Joseph (USADC); dschoen593@aol.com; rjc@dhclegal.com
Subject: [EXTERNAL] Re: US v Bannon - Proposed Schedule

Amanda:

I think our position is clearly stated in my earlier email.

Best regards,

Evan

Sent from my iPhone

On Dec 16, 2021, at 10:56 AM, Vaughn, Amanda (USADC) <Amanda.Vaughn@usdoj.gov> wrote:

Evan,

We disagree with your reading of the Court's direction and believe he wants a joint report. In any event, it seems that you object to us disclosing to the Court that we offered you a compromise to try to accommodate both of our schedules that you rejected. We don't have any problem with taking that out of a joint report. I've attached a revised, redline of the draft status report. Since we have addressed your stated concern, please let us know if you would like to file a joint report, as we understood the Court to want, or if you still would like to file your own.

Do we understand correctly that your change in position from joining a motion to exclude time to deferring to the Court means you no longer are taking the position that excluding time is appropriate under the Speedy Trial Act? If so, we intend to ask the Court to set a speedy trial date. If we do not understand you correctly, please let us know as soon as possible. As we mentioned in our email yesterday, we plan to file a motion regarding the Speedy Trial Act today.

Amanda

From: Evan Corcoran <ecorcoran@silvermanthompson.com>
Sent: Thursday, December 16, 2021 9:57 AM
To: Vaughn, Amanda (USADC) <AVaughn@usa.doj.gov>
Cc: Gaston, Molly (USADC) <MGaston2@usa.doj.gov>; Cooney, Joseph (USADC) <JCooney@usa.doj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: [EXTERNAL] RE: US v Bannon - Proposed Schedule

Amanda:

Thank you for your email.

With respect to your motion to exclude time under the Speedy Trial Act:

- The defense position is that we defer to the Court on the issue. Feel free to state our position in your filing today.

With respect to our separate filing on scheduling:

- We understand the Court's statement at the December 7, 2021, status conference to allow separate filings. See Tr. at 42 ("But as to the remaining pretrial dates, I would like the parties to meet and confer again and to propose no later than December 16th their respective positions or, of course, agreement if reached on the calendar between today's date and July 18th").
- Your proposed filing sets forth various negotiating positions of the parties. We do not believe that that approach is conducive to productive negotiations. It is not typical to include the various offers of the parties when reporting on a meet and confer process. This is not a high school homework assignment where the teacher wants to check the student's work. Here the "answer" is what is at issue – your position on dates and our position – and we understand that you are unwilling to budge on the dates we proposed.

We think a key factor in setting deadlines is having enough discovery to provide a solid factual record for motions.

We plan to make a straightforward filing that sets forth our proposed dates and reasoning.

Best,

Evan

From: Vaughn, Amanda (USADC) <Amanda.Vaughn@usdoj.gov>
Sent: Wednesday, December 15, 2021 8:14 PM
To: Evan Corcoran <ecorcoran@silvermanthompson.com>
Cc: Gaston, Molly (USADC) <Molly.Gaston@usdoj.gov>; Cooney, Joseph (USADC) <Joseph.Cooney@usdoj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: RE: US v Bannon - Proposed Schedule

Evan,

Can you let us know whether the draft joint motion to exclude time and proposed order is acceptable to the defense? We plan to file a motion to exclude time tomorrow, so if your position with respect to joining the motion has changed, please let us know.

With respect to the briefing schedule, since there are only three dates, out of eight, on which we have been unable to reach agreement, we do not understand why a joint status report is not possible, especially because we've already shared our positions. Based on the Court's direction that we meet and confer and file a status report, we understood him to want a joint report, as he did last time. If you have proposed changes to the draft status report, such as additional information regarding your position, please feel free to add it to the draft. As with the prior report, we do not expect any joint report to be filed before a final PDF is circulated to confirm both parties are satisfied. If, instead, you do not want to file the joint report as proposed because you now have a different scheduling proposal, please let us know your proposal so that we can consider it, pursuant to the Court's direction that we confer.

Amanda

From: Evan Corcoran <ecorcoran@silvermanthompson.com>
Sent: Wednesday, December 15, 2021 5:04 PM
To: Vaughn, Amanda (USADC) <AVaughn@usa.doj.gov>
Cc: Gaston, Molly (USADC) <MGaston2@usa.doj.gov>; Cooney, Joseph (USADC) <JCooney@usa.doj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: [EXTERNAL] RE: US v Bannon - Proposed Schedule

Amanda:

Understood.

We will present our proposed dates to the judge tomorrow in a separate filing.

Best,

Evan

From: Vaughn, Amanda (USADC) <Amanda.Vaughn@usdoj.gov>
Sent: Wednesday, December 15, 2021 9:04 AM
To: Evan Corcoran <ecorcoran@silvermanthompson.com>
Cc: Gaston, Molly (USADC) <Molly.Gaston@usdoj.gov>; Cooney, Joseph (USADC) <Joseph.Cooney@usdoj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: RE: US v Bannon - Proposed Schedule

Evan,

We aren't able to agree to the dates you propose, but we believe we can file one document with the Court with both of our proposals. For your consideration, I've attached a joint report and motion to exclude time and a proposed order excluding time under the Speedy Trial Act. I included the sentence you provided below in the joint report. If these are acceptable, please let me know and I can circulate a final PDF for filing.

Amanda

From: Evan Corcoran <ecorcoran@silvermanthompson.com>
Sent: Tuesday, December 14, 2021 10:42 AM
To: Vaughn, Amanda (USADC) <AVaughn@usa.doj.gov>
Cc: Gaston, Molly (USADC) <MGaston2@usa.doj.gov>; Cooney, Joseph (USADC) <JCooney@usa.doj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: [EXTERNAL] RE: US v Bannon - Proposed Schedule

Amanda:

We appreciate your new dates, but unfortunately it does not solve the issue on our end.

Let us know if you think you can live with the dates that we proposed.

If not, let's decide whether to file one document with the two sets of proposed dates for motions practice, or two documents, and let the judge decide.

In either instance, we would want a sentence in the filing after those dates that states, "The Defense seeks later dates for the motions to dismiss, oppositions, and replies, in order to meet court-ordered deadlines in other pending cases, as well as matters of personal observance."

Thank you for considering this and let us know how you wish to proceed.

Best regards,

Evan

From: Vaughn, Amanda (USADC) <Amanda.Vaughn@usdoj.gov>
Sent: Monday, December 13, 2021 2:59 PM
To: Evan Corcoran <ecorcoran@silvermanthompson.com>
Cc: Gaston, Molly (USADC) <Molly.Gaston@usdoj.gov>; Cooney, Joseph (USADC) <Joseph.Cooney@usdoj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: RE: US v Bannon - Proposed Schedule

Evan,

Thanks for your response--we agree that we don't need a call tomorrow.

With respect to the schedule, we propose the following compromise between our two proposals regarding the motions to dismiss stage (first, to allow sufficient time between the motions to dismiss stage and motions in limine to resolve any issues that might arise if you are successful on any motion to compel or if we do not prevail on our motion to exclude advice-of-counsel and need to seek discovery on that matter, and second, because Molly and I will be in trial in late April):

March 18 – motions to dismiss; motions to compel; government's in limine motion to exclude advice of counsel
April 18 – oppositions to March 18 motions due
May 2 – replies due

Please let us know if this is acceptable and we can circulate a draft joint filing.

Amanda

From: Evan Corcoran <ecorcoran@silvermanthompson.com>
Sent: Monday, December 13, 2021 1:24 PM
To: Vaughn, Amanda (USADC) <AVaughn@usa.doj.gov>
Cc: Gaston, Molly (USADC) <MGaston2@usa.doj.gov>; Cooney, Joseph (USADC) <JCooney@usa.doj.gov>; dschoen593@aol.com; rjc@dhclegal.com
Subject: [EXTERNAL] RE: US v Bannon - Proposed Schedule

Amanda:

Please see our highlighted suggestions below.

Not sure that we need a call tomorrow at 10 am, as we should be able to work this out via email.

Please let me know your thoughts.

Best regards,

Evan

From: Vaughn, Amanda (USADC) <Amanda.Vaughn@usdoj.gov>
Sent: Tuesday, December 7, 2021 1:45 PM
To: Evan Corcoran <ecorcoran@silvermanthompson.com>; dschoen593@aol.com
Cc: Gaston, Molly (USADC) <Molly.Gaston@usdoj.gov>; Cooney, Joseph (USADC) <Joseph.Cooney@usdoj.gov>
Subject: US v Bannon - Proposed Schedule

Counsel,

Here is our proposed schedule for proceeding to trial. It incorporates the discovery request deadline that you proposed to the Court in yesterday's status report. Please let us know if this is acceptable, or, if not, what proposals you would like the parties to consider instead.

In addition, given the Court's findings today with respect to how the case needs to proceed, we also believe it is necessary to include a request that the Court issue an order consistent with its findings tolling time under the Speedy Trial Act. Do we understand correctly from your statements today that you would join that request? **DEFENSE AGREES TO TOLLING SPEEDY TRIAL FOR APPLICABLE PERIOD – AND SEEKING ORDER ON SAME.**

Proposed Schedule:

January 14 – defense request for discovery
January 28 – government response to defense discovery request
March 1 – motions to dismiss; motions to compel; government's in limine motion to exclude advice of counsel **DEFENSE PROPOSES APRIL 1**
April 1 – oppositions to March 1 motions due **DEFENSE PROPOSES MAY 2**
April 15 – replies due **DEFENSE PROPOSES MAY 16**
June 17 – motions in limine
July 1 – oppositions to motions in limine due
July 8 – replies to motions in limine due
July 18 – trial

Amanda R. Vaughn
Assistant United States Attorney
Public Corruption & Civil Rights
555 4th Street NW
Washington, D.C. 20001
(202) 252-1793 (office)

amanda.vaughn@usdoj.gov

<Joint Status and STA Mot_12.16.21.docx>