

to, “establish the factual predicate for the actual, proper invocation of executive privilege or testimonial immunity, or both, by the former President.” Mem. Op. at 3. The Court stated that Dr. Navarro would bear the burden to establish President Trump’s “actual personal consideration” (Mem. Op. at 4) of his instructions to Dr. Navarro about responding to the subpoena.

4. Upon receiving confirmation of the hearing date, counsel for Dr. Navarro subpoenaed several witnesses to testify at the evidentiary hearing, including Elizabeth Harrington. Ms. Harrington first met Dr. Navarro in 2021 while she was working as spokesperson for the Save America Political Action Committee. She held that position until November 15, 2022, when she became a spokesperson for the Donald J. Trump for President 2024 campaign.

5. Ms. Harrington’s testimony will corroborate other evidence that President Trump instructed Dr. Navarro to assert executive privilege in response to the J6 Committee’s subpoena. She will explain that on February 9, 2022, after Dr. Navarro was served with the subpoena, he sent her the media statement he planned to publicly issue that day. At the time, the J6 Committee was aggressively issuing subpoenas to President Trump’s senior aides. Dr. Navarro’s statement explained that President Trump had asserted executive privilege and noted that the J6 Committee should negotiate any waiver of the privilege with his attorneys and him. Ms. Harrington immediately conveyed the statement to two of President Trump’s other aides and, later that day, Dr. Navarro publicly released the statement. *See* Defense Exhibit 7.

6. On July 26, 2023, counsel for Dr. Navarro learned from Ms. Harrington for the first time that her due date for the birth of her second child is August 29, 2023 – one day after the date of the evidentiary hearing. Although Ms. Harrington told counsel she would try to attend the hearing, she is, of course, unable to say whether her medical condition and/or responsibilities to

her new baby will allow her to appear at the hearing or for the trial, as currently scheduled. Ms. Harrington's Declaration, which attests to the above, is affixed to this Motion as *Attachment A*.

7. The government has recognized that Ms. Harrington is an important witness in this case. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Dr. Navarro will be unfairly prejudiced if Ms. Harrington is unable to testify at the hearing and the trial.

WHEREFORE, Defendant Peter K. Navarro respectfully requests that the Court continue for a reasonable time the currently scheduled dates of the evidentiary hearing and the trial.

Dated: August 7, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 7, 2023, a true and correct copy of the foregoing was electronically filed and served via the CM/ECF system, which will automatically send electronic notification of such filing to all registered parties.

Respectfully submitted,

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