

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

UNITED STATES OF AMERICA,

Case No. 23-80101-CR-CANNON

Plaintiff,

vs.

DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,

Defendants.

NOTICE REGARDING FILINGS IN A SEPARATE CASE

We write to provide notice of two filings submitted in the United States District Court for the District of Columbia by the Special Counsel and by President Donald J. Trump in *United States v. Donald J. Trump*, No. 23 Cr. 257 (TSC), ECF Nos. 23 and 30 (D.D.C. 2023) (hereinafter the “D.C. Case”). (Attached as Exhibits 1 and 2). We believe it appropriate to alert the Court that the Special Counsel’s proposed schedule in the D.C. Case is in direct conflict with the schedule ordered by Your Honor in this case, a fact conveniently left out of the brief submitted by the Special Counsel to the D.C. Court.

On August 1, 2023, Special Counsel Jack Smith filed a federal indictment in Washington, D.C. against President Trump. (*See* No. 23 Cr. 257 (TSC), ECF No. 1, attached as Exhibit 3). The four-count indictment in the D.C. Case charges President Trump with conspiracy to defraud the United States, conspiracy to obstruct an official proceeding, obstruction of and attempt to obstruct an official proceeding, and conspiracy against rights. After the initial presentment and arraignment on August 3, 2023, the assigned District Court Judge, The Honorable Tanya S. Chutkan, ordered that both the Special Counsel and President Trump submit briefing “proposing a trial date and

providing an estimate of the time required” for trial. (No. 23 Cr. 257 (TSC), August 3, 2023 Minute Order). The Special Counsel’s Office filed its brief on August 10, 2023. (Exhibit 1). President Trump’s response was filed today, August 17, 2023. (Exhibit 2).¹

In the case before this Court, after briefing and oral argument, Your Honor issued an order on July 21, 2023, setting a trial date for May 20, 2024, along with scheduling various pretrial hearings and motion practice dates between now and the start of jury selection. (ECF No. 83 at 5–7). An obviously significant hearing, following briefing in October and November 2023, is scheduled for December 11, 2023, at 9:30 a.m. (*Id.* at 6). The Special Counsel’s Office received this order via ECF and was no doubt aware of the scheduled hearing on December 11, 2023 (note that five members of the Special Counsel’s Office receive ECF notices in this case). Nevertheless, the Special Counsel’s Office argued in its filing in the D.C. Case that jury selection in the D.C. Case should commence on December 11, 2023, despite knowing full well that President Trump and his counsel are expected to be in the Southern District of Florida, in Your Honor’s courtroom, on that date. (Exhibit 1 at 2). Thus, without disclosing this known schedule conflict to Judge Chutkan, the Special Counsel argued that the ends of justice require that President Trump be fully prepared to begin jury selection in the newest indictment filed against him by the Special Counsel in Washington, D.C., on December 11, 2023.

Just as significantly, the Special Counsel’s Office is aware of the overall schedule Your Honor set for pretrial motions and review of discovery, over President Trump’s objection, including (1) CIPA review, litigation, and hearings; (2) review and analysis of multiple terabytes of data produced in discovery; (3) motions to compel discovery (due on October 20, 2023); (4)

¹ A hearing to discuss the potential trial date in the case before Judge Chutkan is scheduled for August 28, 2023, at 10:00 a.m.

pretrial motions (due November 3, 2023); and (5) expert disclosures (due on November 15, 2023). (ECF No. 83 at 5–7). Thus, the Special Counsel’s strategy asking for a schedule in the D.C. Case that culminates in a proposed trial date of January 2, 2024, is not merely gamesmanship by a partisan Department of Justice, it is a miscarriage of justice. Moreover, it is in no way consistent with the directives set out in the Department of Justice Manual, which encourages all Department employees to, “promote the reasoned exercise of prosecutorial authority and contribute to the fair, evenhanded administration of the federal criminal laws.”² While President Trump can only speculate about the Special Counsel’s motive for offering dates in the newly indicted case that directly conflict with dates imposed by Your Honor, it cannot be true that the government’s proposed trial schedule before Judge Chutkan “protect[s] the defendant’s rights and ability to prepare for trial” given the schedule imposed by this Court in its July 21, 2023 Order. (Exhibit 1 at 1).

In its brief in the D.C. Case, the Special Counsel’s Office argues that a December jury selection and January 2, 2024 trial date before Judge Chutkan is appropriate, with full knowledge of the schedules of both President Trump and his attorneys between now and the end of that year, not the least of which includes preparing for the May 2024 trial before Your Honor. President Trump opposes a January 2024 trial date in the D.C. Case for many of the same reasons articulated in President Trump’s July 10, 2023, brief to Your Honor in which we responded to the government’s revised scheduling order. (*See generally* ECF No. 66). As the Special Counsel is aware, there are a multitude of complicated practical issues surrounding President Trump’s schedule, including a six-week trial beginning in October 2023 in New York in a matter brought

² DOJ Justice Manual, *Principals of Federal Prosecution*, <https://www.justice.gov/jm/jm-9-27000-principles-federal-prosecution#9-27.001> (last visited Aug. 15, 2023).

by the New York Attorney General against President Trump and his companies, as well as an ongoing contested primary for the Republican nomination for President of the United States. This is in addition to preparation for a March 25, 2024, criminal trial brought against President Trump by the Manhattan District Attorney's Office. A Special Counsel committed to the fair administration of Justice should never have circumvented this Court's orders under any circumstance, much less with full knowledge of the various issues presented with these multiple indictments against the leading Republican candidate for President of the United States.

Respectfully, the Special Counsel's conduct necessitates appropriate action by Your Honor. In addition to blatantly ignoring this Court's scheduled evidentiary hearing on December 11, 2023, the Special Counsel's actions appear to be intentionally motivated to prevent President Trump from meaningfully preparing for either trial and to simultaneously prevent him from running a campaign for President of the United States. We are separately seeking appropriate relief from Judge Chutkan, as noted in Exhibit 2, and we respectfully request Your Honor order the Special Counsel to explain its reasoning for arguing for a pretrial and trial schedule in the D.C. Case that conflicts directly with this Court's current trial schedule.

Dated: August 17, 2023

Respectfully submitted,

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