

DEAR EDITORS: STOP TRYING TO PREDICT THE MUELLER REPORT

Darren Samuelsohn, who gets credit for one of the most important courthouse scoops of the Mueller investigation – the challenge of a Mueller subpoena by a foreign-owned corporation – wrote a piece laying out, “The week that could reveal Mueller’s end-game.” It relies heavily on analysis from Matt Miller, who was among those people saying not just that Mueller was substantially done three weeks ago (apparently true) but that he would issue his report (didn’t happen as predicted). He also quotes Ty Cobb promising Mueller will finish by mid-March, which is something like 16 months after he first predicted the end date.

Yet Samuelsohn’s piece doesn’t mention his own Mystery Appellant scoop, which is currently scheduled for discussion on SCOTUS’ March 22 conference (and would take some time to coerce compliance after that), at all. This appears to be a case where a foreign owned corporation is shielding the potentially criminal behavior of an American citizen by claiming only the President can coerce it to comply, the kind of appellate question that might rival the one decided in *US v. Nixon*. Solicitor General Noel Francisco’s role in the defense of the subpoena seems to indicate the high stakes of this challenge. Yet even Samuelsohn seems ready to believe that the resolution of this challenge won’t hold up the end game of the Mueller investigation.

Samulesohn also doesn’t mention Andrew Miller’s challenge to a Mueller subpoena. He lost his challenge in the DC Circuit on February 26, but depending on whether this challenge is treated as a criminal or civil one, he still has time to ask for an en banc reconsideration. In the wake of Roger Stone’s indictment, Mueller’s team told Miller’s lawyer they still need his client’s

testimony, apparently for other charges. Admittedly, that could just involve a superseding indictment for Stone down the road – which might explain why Mueller was looking for 8 months before trial – but it’s a loose end that won’t be tied anytime soon (unless Miller quietly complied without anyone noticing).

Even among the details that Samuelsohn lays out (status reports in Flynn and Gates, a gag review and status hearing in Stone’s case, and sentencing for Manafort), he misses a really intriguing one. In the wake of Mueller’s clarification regarding the circumstances behind the printing of polling data on August 2, 2016 and which oligarchs that got that data are Russian (a clarification that made it clear they reinterviewed Rick Gates just a month ago), Manafort submitted a sealed motion (docket 538) for Amy Berman Jackson to reconsider her breach determination.

02/27/2019	536	RESPONSE by USA as to PAUL J. MANAFORT, JR. re Order on Sealed Motion for Leave to File Document Under Seal, (Attachments: # 1 Exhibits A-D REDACTED) (Weissmann, Andrew) (Entered: 02/27/2019)
02/28/2019		MINUTE ORDER as to PAUL J. MANAFORT, JR. Upon review of the OSC's supplemental memorandum 536, it was ORDERED in a sealed minute order entered on this date that the record of the Court's February 13, 2019 findings with respect to the allegations that defendant breached his plea agreement should be corrected to correct an inaccurate description of an individual or individuals on page 36 line 16 of the Hearing Transcript 535. Signed by Judge Amy Berman Jackson on 2/28/19. (DMK) (Entered: 02/28/2019)
03/01/2019	538	SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL as to PAUL J. MANAFORT, JR. (This document is SEALED and only available to authorized persons.) (Attachments: # 1 SEALED - Reply and Motion to Reconsider, # 2 Text of Proposed Order, # 3 Certificate of Service)(Westling, Richard) (Entered: 03/01/2019)
03/01/2019		MINUTE ORDER as to PAUL J. MANAFORT, JR. (1) The Court has reviewed the transcript of proceedings of February 13, 2019 in connection with OSC's supplemental memorandum 536 and the exhibit attached thereto [536-1], which relate to the Court's finding that defendant breached his plea agreement and specifically, to [REDACTED]. The Court appreciates the clarification of the record and states that the information in the supplemental memorandum [REDACTED] does not alter the Court's determination 509 that "OSC has established by a preponderance of the evidence that the defendant intentionally made multiple false statements...concerning...his interactions and communications with Kilimnik." However, the record should reflect that the [REDACTED], as the defense maintained, has no bearing upon the issues before the Court or [REDACTED]. Signed by Judge Amy Berman Jackson on 3/1/19. (DMK) (Entered: 03/01/2019)
03/04/2019		MINUTE ORDER granting 538 Sealed Motion for Leave to File Document Under Seal as to PAUL J. MANAFORT JR. (1) The Clerk of Court is directed to file under seal [538-1], Defendant's Reply and Motion to Reconsider Based on the OSC's Supplemental Memorandum with Respect to the February 13, 2019 Ruling. The Clerk of Court is also directed to unseal 538 the Motion for Leave to File Under Seal itself. The Court will deem defendant's filing as a motion for reconsideration of both the February 13, 2019 ruling and the March 1, 2019 minute order, which the Court prepared before defendant's motion was docketed. It is ORDERED that defendant shall confer with the government on proposed reductions to the Reply and Motion to Reconsider and file a reduced copy on the public docket. Signed by Judge Amy Berman Jackson on 3/4/19. (DMK) Modified on 3/4/2019 (ajb). (Entered: 03/04/2019)
03/05/2019	541	STATUS REPORT by USA as to PAUL J. MANAFORT, JR (Weissmann, Andrew) (Entered: 03/05/2019)
03/06/2019	543	Recommendation of PSI Report (prepared by SUSPO Kelly Kriener-Sources) as to PAUL J. MANAFORT, JR. re 542 Final Presentence Investigation Report Not for public disclosure per Judicial Conference Policy (Kriener-Sources, Kelly) (Entered: 03/06/2019)
03/11/2019	544	STATUS REPORT by USA as to PAUL J. MANAFORT, JR (Weissmann, Andrew) (Entered: 03/11/2019)

In a minute order filed last Monday, she approved the filing of that motion under seal, but ordered Manafort’s lawyers and Mueller’s to get together to agree on a set of redactions to release that motion. While there have been several sealed motions submitted since then, we don’t yet have that motion for reconsideration.

Manafort’s lawyers have been working hard to publicly reveal details – spun using any of a variety of changing cover stories – about that August 2 meeting since last summer. They’ve already lost a bid to unseal more details of this dispute from one of the past hearings, and they may have lost a dispute here (or it may something that will be aired in Wednesday’s sentencing hearing).

It's interesting not just *that* Manafort's lawyers, in their relentless bid to perform as the guy holding the pardon pen most wants them to perform, are still trying to explain away why Trump's campaign manager provided data to be shared with Russia at the same meeting he discussed what amounts to relief from the Ukraine related sanctions. But even as Kevin Downing tries yet again to offer a cover story, Mueller appears to be successfully hiding the full details of this incident.

If they're done, there's no reason to hide these details, yet ABJ seems to agree they do have reason to hide them.

It is at once possible – likely even! – that the bulk of the investigative work is done (allowing Mueller's lead Agent to be put in charge of the Richmond FBI Office), but that there are remaining threads that Mueller needs for his final "report." It's even possible that everyone misunderstands what form that final report will take.

But thus far no editor has produced a story that adequately describes the signs of a nearing end that adequately accounts for the number of known loose ends that will take some weeks to be tied.

As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.