

JIM TRUSTY TELLS HAND-PICKED SPECIAL MASTER RAYMOND DEARIE TO FUCK OFF

At the beginning of a status hearing before Raymond Dearie the other day, Jim Trusty suggested they had until November 12 to submit their designations on privilege for the remaining 21,792 pages of documents. DOJ attorney Julie Edelstein corrected him, and said their deadline was November 2.

Per Aileen Cannon's order throwing out much of Dearie's proposed work plan and extending deadlines, that appears to be right. That order set that deadline for 21 days after DOJ issued a notice of completion to indicate Trump had the documents with a spreadsheet to track everything.

No later than twenty-one (21) calendar days after the receipt of Defendant's Notice of Completion, Plaintiff shall provide the Special Master and Defendant with one comprehensive, annotated copy of the spreadsheet described above that specifies, for each document, whether Plaintiff asserts any of the following:

- a. Attorney-client communication privilege;
- b. Attorney work product privilege;
- c. Executive Privilege;
- d. Presidential Record within the meaning of the Presidential Records Act; and
- e. Personal record within the meaning of the Presidential Records Act.

Plaintiff's designations shall be on a document-by-document basis.

On paper, at least, it seems that Edelstein is correct. DOJ submitted their notice of completion on October 12 (two days before Cannon's deadline). The deadlines that trigger off that should be November 2 (for Trump to submit designations) and November 12 (to submit disputes to Dearie).

It's worth keeping that deadline dispute in mind as you consider what Jim Trusty did last night.

First, DOJ submitted a letter purporting to summarize the disputes between the two sides about the privilege determinations for fifteen documents that Dearie must issue a ruling on. I'll come back to those in a follow-up; the important detail is the document shows Trump making ridiculous claims. As a reminder, this page has links to most documents from the stolen document case and my posts.

Hours later, Jim Trusty filed a letter saying that Trump's team believed both sides were going to file a joint document, and because DOJ hadn't and because Trump doesn't agree with some of DOJ's designations, they're not going to file their disputed items until October 24, Monday.

As noted in the Defendant's October 20, 2022 submission (ECF 150) the parties met and conferred regarding Filter A documents on October 19, 2022. Up until receipt of the Defendant's October 20, 2022 filing, we anticipated that there would be a joint submission and an exchange between the parties preceding that joint submission to confirm both parties' positions. This is consistent with the process that was undertaken for the October 3, 2022 joint submission with the Filter Team. Instead, the government filed its own log and presented its legal positions on the documents for which there is dispute between the parties.

Unfortunately, the log submitted by the government is not fully accurate as to

the Plaintiff's position on various documents.

In light of these facts, the Plaintiff will file our position on the documents that remain in dispute by the close of business on October 24, 2022.

Since Aileen Cannon decided to override Dearie and start changing deadlines randomly and unilaterally, it has been unclear what the deadlines or workplan will be on this case – the single certain thing is that, in the end, Trump will complain about Dearie's designations and Cannon will review them de novo. Both Cannon's original order and her Calvinball order overriding Dearie set initial deadlines for privileged determinations, but have no follow-up deadlines.

But in an October 7 order, Dearie did set deadlines. *Trump's 5-day deadline to complain* about any orders has passed, and unless the Cannon Calvinball has gotten really tricky, I'm not aware of anything overriding that deadline.

And that deadline was yesterday.

Trusty had enough time to review the DOJ filing and disagree and at least note about which items there's a disagreement. ***There are only 15 documents here!!***

But instead, Trump responded to the public docketing of his absurd claims by spending the time to write up a letter announcing he was taking his toys and going home for the weekend to pout. The best way to understand this action is that Trump simply doesn't believe Judge Dearie has any authority to require actions of him.

And so Dearie could take the DOJ report and issues rulings, which might result in a report that came out early enough before the election for Cannon to have to overrule them before it. But if that happens, Trump will simply say he wasn't part of that process.

Update: Dearie has noted that Trump's response is untimely and given him until end of business today.

ORDER: The Special Master notes Plaintiff's counsel's letter of October 20, 2022 [151](#) [10](#) . To the extent Plaintiff asserts that the government's letter of the same date [150](#) [10](#) "is not fully accurate as to the Plaintiff's position on various documents," any submission by Plaintiff to the contrary is now untimely pursuant to my Order of October 7, 2022 [138](#) [10](#) , which required the parties to submit their final log of positions regarding certain Filter Materials by October 20, 2022. Plaintiff may submit his position no later than the close of business today, October 21, 2022. Signed by Special Master Raymond J. Dearie on 10/21/2022. (Entered: 10/21/2022)

Dates

October 7: Dearie issues order on filter team materials, sets October 10 and October 20 deadlines (in bold)

October 10: Deadline to return originals of Category B documents to Trump

October 11: DOJ Reply to Trump Emergency Motion at SCOTUS

October 12: Deadline to complain to Cannon about Dearie's October 7 order; Notice of Completion submitted

October 13: DOJ provides materials to Trump

By October 14: DOJ provides notice of completion that Trump has received all seized documents

On or before October 14: DOJ revised deadline to 11th Circuit

October 18: Phone Special Master conference

October 20: Deadline for disputes about Executive Privilege and Presidential Records Act on filtered material

October 24: Date Trump unilaterally declares his deadline to comply with Dearie's order

November 2 (21 days after notice of completion): Trump provides designations for all materials to DOJ

November 8: Election Day

November 10, 2022: Trump revised deadline to 11th Circuit

November 12 (10 days after notice of complete): Both sides provide disputes to Dearie

November 17, 2022: DOJ revised reply to 11th Circuit

December 16: Dearie provides recommendations to Cannon

January 3: New Congress sworn in

No deadline whatsoever: Cannon rules on Dearie's recommendations

Seven days after Cannon's no deadline whatsoever ruling: Trump submits Rule 41(g) motion

Fourteen days after Cannon's no deadline whatsoever ruling: DOJ responds to Rule 41(g) motion

Seventeen days after Cannon's no deadline whatsoever ruling: Trump reply on Rule 41(g)