

“SENSITIVITIES AND EXPOSURE:” SIX STUPID THINGS ABOUT LINDSEY HALLIGAN’S FIRST FILING

I already noted that, after Judge Michael Nachmanoff issued an order setting Monday as the deadline for prosecutors to provide Jim Comey all the discovery in his case, prosecutors submitted what they fashion as a Motion for a Discovery Order.

I was going to leave the filing well enough alone. Either Pat Fitzgerald or Judge Nachmanoff will respond later today, when things will get interesting. But there are a number of stupid things about the filing I can’t shake.

1) First, the prosecutors (it was submitted by Gabriel Diaz) do not fashion this as a motion for reconsideration. They just ... pretend that Nachmanoff’s order doesn’t exist, and pretend they’re submitting this for the first time. That seems like a spectacular way to infuriate a judge.

2) They’re asking for two deadlines – October 14 for the things pertaining to the vindictive prosecution motion and October 20 for everything else, a transparent attempt to keep things from Comey that might be pertinent to his vindictive prosecution motion.

Part of their justification for filing this is that the parties had not reached an agreement and so they were following Nachmanoff’s order to submit competing versions on Monday.

On October 8, 2025, the Court ordered “the parties immediately confer regarding the entry of a joint discovery order” and further ordered “that if after good faith discussions the parties

are unable to agree on and file a joint discovery order by Friday, October 10, 2025, . . . the parties shall each submit a proposed discovery order by Monday, October 13, 2025, at 5:00 p.m. D.E. 24.

But then, in a high school debate-worthy footnote, they suggest that Monday couldn't be the deadline because it's not five business days before the first pretrial motion deadline, since it's a holiday.

Following the Court's orders regarding discovery at docket entries 28 and 29, the Government conferred with Defense as to what the discovery deadline is. The Defense position was that, per the Court's Order, discovery could have technically been due on Friday, October 10, 2025. But the notion that discovery was due prior to the Court entering a discovery order is not plausible. Alternatively, the Defense identified October 13, 2025, as the due date. This date is a Federal Holiday and is also inconsistent with the discovery order from this Court that lists discovery as due five business days before the pretrial motion deadline.

You're already treating Monday as a business day!! Your entire premise here – that Fitzgerald should have held off on filing until Monday – is that you're working on Monday.

3) Elsewhere – apparently in an attempt to suggest they were being really nice by letting Comey submit a second set of pretrial motions on October 30 – they describe that the default pretrial motion deadline going into last week's hearing would have been October 22.

The defendant requested, the government agreed, and the Court ordered two motions Deadlines, October 20, 2025, and

October 30, 2025. Notably, EDVA Local Criminal Rule 12 states that pretrial motions should be filed within 14 days of the arraignment. Here, the 14 day deadline would have been October 22.

This amounts to a confession that the default deadline *for discovery* going into last week's hearing would have been five business days before October 22, or October 17. Prosecutors provide no explanation why they need an extra three days simply because Comey has two sequential pretrial motions.

4) They describe that Comey wouldn't discuss the discovery order on October 7 when – for the first time in the 12 days since Comey had been indicted – prosecutors first reached out, because Comey's team first demanded to know who the people described in the indictment were.

At that time, the government discussed with the defendant the proposed standard EDVA discovery agreement and a discovery protective agreement. At the initial discussion the defendant would not agree until the government provided information on the U.S. Attorney's appointment and the identities of PERSON 1 and PERSON 3 on the Indictment.

Remember: Pat Fitzgerald said *three different times* in the arraignment the next day that he still hadn't been told who these people were. So Diaz is effectively confessing that prosecutors wouldn't – perhaps couldn't – describe who these people were.

5) The only justifiable reason they give for delay is that the two sides have yet to agree on a protective order, which they claim is really important because of "the sensitivities and exposure associated with this prosecution."

Additionally, the parties have yet to agree on a discovery protective agreement. Considering the sensitivities

and exposure associated with this prosecution, a discovery protective agreement is a vital part of the overall discovery plan.

[snip]

On the afternoon of October 9, 2025, the defendant emailed back the government's proposed protective agreement with significant proposed edits.

[snip]

Consistent with the Court's direction at arraignment, the parties have also conferred regarding a discovery protection agreement. The government provided a past template used in the Eastern District of Virginia. The Defense made substantial edits, and the government agreed to those edits in large part. However, the parties still lack agreement as to whether the discovery can be provided and retained by the Defendant.

But they don't provide the protective order (AKA "protection agreement") with this filing. By their logic, they're refusing to turn over discovery until they have one. By not turning it over, they're ensuring that they cannot meet the currently set deadline of Monday.

6) Finally, they spelled North Carolina wrong.

/S/

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Update: Corrected (from five to three) how many more days prosecutors are trying to get off what would have been the original October 17 due

date.