

Twitter Thread by Norm Eisen



Norm Eisen

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BREAKING: Judge Cannon has ruled—wrongly— that a special master should be appointed to review the documents obtained from Mar-a-Lago for executive and other privileges. Because this includes an injunction vs investigative use, DOJ can and should appeal.

More to follow.

ORDER

THIS CAUSE comes before the Court upon Plaintiff's Motion for Judicial Oversight and Additional Relief (the "Motion") [ECF No. 1], filed on August 22, 2022. The Court has reviewed the Motion, Plaintiff's Supplemental Filing [ECF No. 28], the Government's Response in Opposition [ECF No. 48], Plaintiff's Reply [ECF No. 58], and the related filings [ECF Nos. 31, 39, 40 (sealed)]. The Court also held a hearing on the Motion on September 1, 2022.

Pursuant to the Court's equitable jurisdiction and inherent supervisory authority, and mindful of the need to ensure at least the appearance of fairness and integrity under the extraordinary circumstances presented, Plaintiff's Motion [ECF No. 1] is **GRANTED IN PART**. The Court hereby authorizes the appointment of a special master to review the seized property for personal items and documents and potentially privileged material subject to claims of attorney-client and/or executive privilege. Furthermore, in natural conjunction with that appointment, and consistent with the value and sequence of special master procedures, the Court also temporarily enjoins the Government from reviewing and using the seized materials for investigative purposes pending completion of the special master's review or further Court order. This Order shall not impede the classification review and/or intelligence assessment by the Office of the Director of

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National Intelligence ("ODNI") as described in the Government's Notice of Receipt of Preliminary Order [ECF No. 31 p. 2].

RELEVANT BACKGROUND

The following is a summary of the record based on the parties' submissions and oral presentation.¹ Throughout 2021, former President Donald J. Trump ("Plaintiff") and the National Archives and Records Administration ("NARA") were engaged in conversations concerning records from Plaintiff's time in office [ECF No. 1 p. 4; ECF No. 48-1 p. 2].² In January 2021, as a product of those conversations, Plaintiff transferred fifteen boxes (the "Fifteen Boxes") from his personal residence to NARA [ECF No. 1 pp. 4–5; ECF No. 48 p. 5; ECF No. 48-1 p. 6]. Upon initial review of the Fifteen Boxes, NARA identified the items contained therein as newspapers,