

OA 635

A. DeSantis and Human Trafficking

-is it clearly illegal for a monster of a governor to lure human beings under false pretenses onto a plane and dump them in a foreign state?

-no

-Massachusetts is going to sue, we should think as outside the box as possible

-but god help us, we need to amend our laws

1) Sanctuary cities/sanctuary states

-cooperation and information-sharing with local police departments

-because it's not a state function, there's no such thing as a "sanctuary state"

-Massachusetts because of *Lunn v. Commonwealth* (2017)

https://scholar.google.com/scholar_case?case=1152151608336823718

-essentially identical facts to *Arizona v. US*, Supreme Court case. Said "the question before us, therefore, is whether Massachusetts court officers have the authority to arrest someone at the request of Federal immigration authorities, pursuant to a civil immigration detainer, solely because the Federal authorities believe the person is subject to civil removal. There is no Federal statute that confers on State officers the power to make this kind of an arrest. The question we must answer is whether the State law of Massachusetts authorizes such an arrest. To answer the question, we must look to the long-standing common law of the Commonwealth and to the statutes enacted by our Legislature. Having done so, we conclude that nothing in the statutes or common law of Massachusetts authorizes court officers to make a civil arrest in these circumstances."

2) Illegals

Language the Supreme Court uses is "removable alien"

-entitled to some due process

Arizona v. U.S., 567 U.S. 387 (2012)

https://scholar.google.com/scholar_case?case=9631209735656265344

Arizona passed a law that provides that a state officer, "without a warrant, may arrest a person if the officer has probable cause to believe ... [the person] has committed any public offense that makes [him] removable from the United States." *Ariz. Rev.Stat. Ann. § 13-3883(A)(5)*. The United States argues that arrests authorized by this statute would be an obstacle to the removal system Congress created.

As a general rule, it is not a crime for a removable alien to remain present in the United States.

See *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038, 104 S.Ct. 3479, 82 L.Ed.2d 778 (1984). If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent. When an alien is suspected of being removable, a federal official issues an administrative document called a "Notice to Appear." See 8 U.S.C. § 1229(a); 8 CFR § 239.1(a). The form does not authorize an

arrest. Instead, it gives the alien information about the proceedings, including the time and date of the removal hearing. If an alien fails to appear, an *in absentia* order may direct removal.

Why might you not remove? Cooperating with a criminal investigation, serving in the military, veteran, student.

Supreme Court struck down Arizona law.

3) Human Trafficking laws

18 U.S.C. Ch. 77

<https://www.law.cornell.edu/uscode/text/18/part-I/chapter-77>

forced labor, slavery, sex slavery

AMP model

<https://humantraffickinghotline.org/sites/default/files/AMP%20Model.pdf>

“Action – Means – Purpose”

Action: Induce, recruits, harbors, **transports**, provides, or obtains

Means: force, **fraud**, or coercion

Purpose: labor, services, or commercial sex

??

Not measured by the benefit provided, measured by “compelling the victim to provide labor, services, or commercial sex acts.”

-We need new laws

B. Yodel Mountain

So what's new? – A LOT

AWW: ABSOLUTELY no indication that Judge Dearie is in the tank for Trump. I'm skittish from Bill Barr, and it is what it is. Order came out the day we dropped our last episode. I saved it for OA. It's good.

1. Overview

- No gov't petition to SCOTUS for injunctive relief
- DOJ investigation is moving full speed ahead
- DOJ CAN indict Trump during this election cycle as per Barr memo, just need Garland's signoff
- Probably won't

Justice Manual, formerly the United States Attorneys' Manual

<https://www.justice.gov/jm/justice-manual>

Section 9-85, "Protection of Government Integrity"

<https://www.justice.gov/jm/jm-9-85000-protection-government-integrity>

9-85.300 Non-Interference in Elections When Conducting Federal Criminal Investigations Involving Ballot Fraud

Ballot fraud is crime involving the process by which voters are registered, votes are cast, or votes are tabulated. The Department has long recognized that the States – not the federal government – are responsible for administering elections, determining the validity of votes, and tabulating the results, with challenges handled by the appropriate election administrators, officials, legislatures, and courts. The Department has a limited role in these processes and should generally avoid interfering or appearing to interfere with election administration, tabulation, validation, or certification.

The Department's role is limited to investigating and prosecuting violations of federal election laws and deterring criminal conduct. Accordingly, the Department should not engage in overt criminal investigative measures in matters involving alleged ballot fraud until the election in question has been concluded, its results certified, and all recounts and election contests concluded. Doing otherwise runs the risk of chilling legitimate voting and campaign activities and of interjecting the investigation itself into ongoing campaigns and the adjudication of any ensuing election contest. It may, however, often be appropriate, in consultation with the Public Integrity Section, to share information and allegations involving such matters with state/local authorities where an immediate need for overt measures exists.

9-85.500 Actions that May Have an Impact on an Election

Federal prosecutors and agents may never select the timing of any action, including investigative steps, criminal charge, or statements, for the purpose of affecting any election, or for the purpose of giving an advantage or disadvantage to any candidate or political party. Such a purpose is inconsistent with the Department's mission and with the Principles of Federal Prosecution. *See* [§ 9-27.260](#). **Any action likely to raise an issue or the perception of an issue under this provision requires consultation with the Public Integrity Section, and such action shall not be taken if the Public Integrity Section advises that further consultation is required with the Deputy Attorney General or Attorney General.**

2. Procedural History & Authority of the Special Master

a) ECF 91: The “Appointment Order”

<https://storage.courtlistener.com/recap/gov.uscourts.flsd.618763/gov.uscourts.flsd.618763.91.0.pdf>

That’s the 9/15 Order that Judge Cannon entered that appointed Judge Dearie as the Special Master. It’s going to come up because Judge Dearie is kind of functioning like an administrative agency here; he’s an active judge (but he didn’t have to be – he could have been anybody), and ALL of his authority comes from that order:

Paragraph 2:

“The specific duties of the Special Master are as follows and will include all powers necessary to carry out these duties:” a) verify that the property inventory is correct; b) conduct a privileged review of the seized materials and make recommendations to the court as to any privilege disputes between the parties including any formal assertions of executive privilege; c) identify personal items/documents AND Presidential Records and make recommendations to the court as to any disputes between the parties; d) **evaluate claims for return of property under Rule 41(g)** of the FRCrim Pro; e) anything else the Court tells him to do.

Paragraph 3- may consult with NARA

Paragraph 4 – “The Special Master will have the full authority set forth in Rule 53(c) of the Federal Rules of Civil Procedure.” **Can be limited.** This will come up.

Paragraph 5 – sets out the workflow of privilege review etc. This is challenged.

-REMEMBER THAT THE MERITS OF THIS ORDER IN ITS ENTIRETY ARE STILL PENDING BEFORE THE 11TH CIRCUIT ON INTERLOCUTORY APPEAL. What the DOJ got was preliminary injunctive relief, staying a part of that order that dealt with the classified documents pending the resolution of that appeal.

On a practical level, that appeal will *probably* be moot, but if *either* the Special Master (Judge Dearie) or Judge Cannon go off the rails again, the DOJ has that in their back pocket. They could go back to the 11th Circuit and request additional injunctive relief and/or brief the merits and say this whole thing was nonsense because there’s no jurisdiction.

NOW, there’s nothing to stop the 11th Circuit from changing its mind. It *could* rule differently on jurisdiction on the merits, but as we covered on the show, that section of the order was basically “yeah, courts don’t exercise anomalous jurisdiction where there’s no ‘callous disregard’ for a party’s constitutional rights; we don’t have that here, so what was Judge Cannon even thinking?” PLUS a whole bunch of other stuff. That doesn’t change with respect to the nature of the documents, so you’d rather be the DOJ than Trump. BUT, you still have two Trump appointees on the panel so I think if I were the DOJ I’d proceed pretty cautiously. Don’t press your luck.

SPOILER: I think **Trump** is more likely to just drop his request for a Special Master, drop this whole case – for reasons we’re going to get to. And that could come as early as next Wednesday, October 5!

So: most likely outcome is that the parties just play along with the Special Master and waste time for a couple of months because absolutely nothing is interfering with the DOJ/FBI investigation of Trump, issuing new subpoenas, search warrants, or indictments. SO everyone participates in this farce, a bunch of people get paid Trump bucks or maybe not, and the DOJ indicts Trump in early 2023.

b) ECF 104: The “Order Following Partial Stay”

https://storage.courtlistener.com/recap/gov.uscourts.flstd.618763/gov.uscourts.flstd.618763.104.0_5.pdf

9/22 – one week later, after Trump got his ass handed to him by the 11th Circuit, Judge Cannon modified her order. Did three things:

1. The term “seized material” in the Court’s Order Appointing Special Master [ECF No. 91] is modified to include all materials seized on August 8, 2022, except the approximately one-hundred documents bearing classification markings [ECF No. 91 ¶ 2].

2. Paragraph 5(b)(i)(bb) of the Order Appointing Special Master is hereby STRICKEN [ECF No. 91 ¶ 5] – that was the provision that the gov’t had to make the classified materials available to Trump and his lawyers, and since Christina Bobb is probably a Russian agent, that was never going to happen.

3. Paragraph 6 of the Order Appointing Special Master is hereby STRICKEN [ECF No. 91 ¶ 6]. That was struck because it said “prioritize review of the confidential stuff,” but it authorized interim progress reports and orders and Judge Dearie has already requested that part be reinstated, I imagine he’ll get it. He’s filing status reports anyway.

3. September 23 Case Management Order from Judge Dearie

https://storage.courtlistener.com/recap/gov.uscourts.flstd.618763/gov.uscourts.flstd.618763.112.0_2.pdf

Does 4 things:

a) Verification of the Detailed Property Inventory, ECF No. 39-1.

-that response was due MONDAY, Sep. 26, and it’s now in, and I’ve reviewed it
Compare Initial ECF 39-1 (“Detailed Property Inventory”), Pages 146-151

<https://openargs.com/wp-content/uploads/DOJ-Mtn-Stay-11th-Cir.pdf>

with revised filing

<https://openargs.com/wp-content/uploads/2022.09.26-Affidavit-re-seized-documents.pdf>

DOJ says (paragraph 6, FN 2) “That resulted in some minor revisions,” and notes that the previous inventory was completed in one day (because Judge Cannon, FSW).

-33 boxes

-Does not affect the secret stuff – not any of the classified markings or empty folders with classified markings – with one exception, box 33

TWO categories of documents:

- (i) "Magazines/Newspapers/Press Articles and Other Printed Media dated between X and Y
- (ii) "US Government Documents/Photographs Without Classification Markings"

- photographs
- could be memoranda?
- he is a narcissist

DETAILED ENTRIES ON MY PERSONAL NOTES, WHICH PATRONS GET AT \$3

super duper minor

-Box 2 ("Box/Container From Office")

Increased to 74 from 69 "US Government Documents/Photographs Without Classification Markings"

-Box 4 ("Box/Container From Office")

Increased to 361 from 357 "US Government Documents/Photographs Without Classification Markings"

-Box 6 ("Box/Container From Office")

Increased to 671 from 640 "US Government Documents/Photographs Without Classification Markings"

-Box 10 ("Box/Container From Storage Room")

Increased to 257 to 255 "US Government Documents/Photographs Without Classification Markings"

-Box 11 ("Box/Container From Storage Room")

Increased to 110 from 104 "US Government Documents/Photographs Without Classification Markings"

-Box 13 ("Box/Container From Storage Room")

* Reduced to 52 from 62 "Magazines/Newspapers/Press Articles and Other Printed Media dated between 9/2018 and 8/2019

* Increased to 710 from 708 "US Government Documents/Photographs Without Classification Markings"

-Box 18 ("Box/Container From Storage Room")

Increased to 1,578 from 1,571 "US Government Documents/Photographs Without Classification Markings"

-Box 21 ("Box/Container From Storage Room")

Increased to 1,413 from 1,406 "US Government Documents/Photographs Without Classification Markings"

-Box 22 ("Box/Container From Storage Room")

* Increased to 111 from 109 "Magazines/Newspapers/Press Articles and Other Printed Media dated between 6/2020 and 10/2020"

* Reduced to 25 from 29 "US Government Documents/Photographs Without Classification Markings"

-Box 23 ("Box/Container From Storage Room")

* Increased to 68 from 67 "Magazines/Newspapers/Press Articles and Other Printed Media dated between 11/2016 and 06/2018

* Reduced to 69 from 708 "US Government Documents/Photographs Without Classification Markings"

-Box 24 (“Box/Container From Storage Room”)

Reduced to 1599 from 1603 “US Government Documents/Photographs Without Classification Markings”

-Box 26 (“Box/Container From Storage Room”)

Increased to 1,844 from 1,841 “US Government Documents/Photographs Without Classification Markings”

-Box 28 (“Box/Container From Storage Room”)

Reduced to 793 from 795 “US Government Documents/Photographs Without Classification Markings”

-Box 29 (“Box/Container From Storage Room”)

* Reduced to 84 from 86 “Magazines/Newspapers/Press Articles and Other Printed Media dated between 10/1995 – 05/2019

Box 32 (“Box/Container From Storage Room”)

* Increased to 98 from 94 “Magazines/Newspapers/Press Articles and Other Printed Media dated between 2/2008 and 4/2020”

* Reduced to 87 from 88 “US Government Documents/Photographs Without Classification Markings”

Box 33

Deleted 2 Empty folders with Classified Banners – was on original list, not on new affidavit

Cut & paste?

-Dearie’s interim report just says that the list “differs in some respects from the information in the government’s previously filed Detailed Property Inventory,” no characterization one way or the other.

THING TWO

- b) Trump’s obligations to ACTUALLY SAY STUFF UNDER OATH rather than just imply it with respect to the search

No later than September 30, 2022 – **now Oct. 7** - Plaintiff shall submit a declaration or affidavit that includes each of the following factual matters:

- a. A list of any specific items set forth in the Detailed Property Inventory that Plaintiff asserts were not seized from the Premises on August 8, 2022.
- b. A list of any specific items set forth in the Detailed Property Inventory that Plaintiff asserts were seized from the Premises on August 8, 2022, but as to which Plaintiff asserts that the Detailed Property Inventory’s description of contents or location within the Premises where the item was found is incorrect.
- c. A detailed list and description of any item that Plaintiff asserts was seized from the Premises on August 8, 2022, but is not listed in the Detailed Property Inventory. **This submission shall be Plaintiff’s final opportunity to raise any factual dispute as to the completeness and accuracy of the Detailed Property Inventory.**

-Oct. 14 Gov't response deadline: No later than October 14, 2022, the government shall submit a declaration or affidavit from a person with sufficient knowledge of the matter responding to any factual disputes as to the completeness and accuracy of the Detailed Property Inventory raised in Plaintiff's submissions.

Upon reviewing the parties' submissions, the undersigned will schedule further proceedings as needed to resolve any such disputes including, if necessary, an evidentiary hearing at which witnesses with knowledge of the relevant facts will provide testimony. To the extent that the resolution of any such factual disputes identifies additional materials that should be reviewed, the undersigned will set further proceedings as needed. The identification and resolution of any factual disputes as to the completeness and accuracy of the Detailed Property Inventory **will proceed concurrently with the substantive review procedures described below.**

THING THREE

c) Trump's obligations regarding the privilege review – put a pin in this one

- agree to a document vendor (this is kind of hilarious)
- scan and make the documents available to the special master
- Trump has to serve a privilege log on the gov't – that's **not filed**, so we don't get a copy
- Rolling basis, has already started, *probably* has done so for the Filter Materials given to him by the taint team
- three more rolling productions, last one due Oct. 21
- then the parties meet, confer, and submit the disputed designations to the SM within 7 calendar days
- so **all of this gets wrapped up by October 28**

THING FOUR

d) Parties further briefing

- SM is going to make a recommendation on Rule 41(g) for return of stuff
- Trump should brief it AND "In addition to addressing the merits of the Rule 41(g) motion, Plaintiff's brief should address specifically whether the motion may properly be resolved in this action or must instead be decided as part of the docket in the action in which the relevant warrant was issued, 9:22-MJ-08332-BER."

Hahahahahahahahahahahahahahahahaha

4. Trump opposition to Dearie's CMO

<https://openargs.com/wp-content/uploads/2022.09.25-Trump-objection-to-CMO.pdf>

This is my favorite because it was initially filed under seal (Docket No. 119) but then, because Trump's lawyers were drafted at gunpoint, it was later filed as an exhibit to their opposition to the government's motion to extend time by a couple of days. They're super geniuses!

a) We're not going to file actual verifications and you can't make us!

To help find facts, the appointing order authorized a declaration or affidavit by *a Government official* regarding the accuracy of the Detailed Property Inventory [ECF 39-1] as to whether it represents a full and accurate accounting of the property seized from Mara-Lago. Appointing Order ¶ 2(a).

The Appointing Order contemplated no corresponding declaration or affidavit by Plaintiff, and because the Special Master's case management plan exceeds the grant of authority from the District Court on this issue, Plaintiff must object. Additionally, the Plaintiff currently has no means of accessing the documents bearing classification markings, which would be necessary to complete any such certification by September 30, the currently proposed date of completion.

- Does it exceed the grant of authority? Not remotely.
- Already extended by Judge Dearie to Oct. 7.

Paragraph 2 of the Appointment order: "The specific duties of the Special Master are as follows and will include all powers necessary to carry out these duties:" a) verify that the property inventory is correct

Paragraph 4: All powers under FRCP 53

FRCP 53

https://www.law.cornell.edu/rules/frcp/rule_53

FRCP 53(c) MASTER'S AUTHORITY.

(1) *In General.* Unless the appointing order directs otherwise, a master may:

- (A) regulate all proceedings;
- (B) take all appropriate measures to perform the assigned duties fairly and efficiently; and
- (C) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence.

Here's why this matters. Trump's representative – we believe Christina Bobb – signed a certification under penalty of perjury on June 3, 2022 that

'Based on the information that has been provided to me, I am authorized to certify, on behalf of the Office of Donald J. Trump, the following: a. a diligent search was conducted of the boxes that were moved from the White House to Florida; b. This search was conducted after receipt of the subpoena **[that requested return of all documents bearing any classification markings]**, in order to locate any and all documents that are responsive to the subpoena. c. **any and all responsive documents accompany this certification**; and d. **No copy, written notation, or reproduction of any kind was retained as to any responsive document.**

So it's not just admitting Trump fed Christina Bobb materially false information in connection with that search. 18 U.S.C. 793(e) is the records crime

<https://www.law.cornell.edu/uscode/text/18/793>

(e) **Whoever having unauthorized possession of**, access to, or control over **any document**, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note **relating to the national defense**, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or **willfully retains the same** and fails to deliver it to the officer or employee of the United States entitled to receive it [is guilty of the offense]

* just filing this affidavit pretty much admits to the crime – **yes you could take 5th**

b) Privilege log - We're not going to tell you the basis

The appointing order also provides that that Plaintiff's counsel, after review of the seized materials, shall allocate them to one of four categories, as follows:

- (1) Personal items and documents not claimed to be privileged;
- (2) Personal documents claimed to be privileged;
- (3) Presidential Records not claimed to be privileged; and
- (4) Presidential Records claimed to be privileged.

-**"mutually exclusive" as described in the order**

Dearie's order has six categories – you can be more than one:

- a. Attorney-client communication privilege;
- b. Attorney work product privilege
- c. Executive privilege that prohibits review of the document within the executive branch;
- d. Executive privilege that prohibits dissemination of the document to persons or entities outside the executive branch;
- e. The document is a Presidential Record within the meaning of the Presidential Records Act of 1978, 44 U.S.C. § 2201, et seq. ("PRA"); see id. § 2201(2); and/or
- f. The document is a personal record within the meaning of the PRA; see id § 2201(3).

Plaintiff's designations shall be on a document-by-document basis. For any document that Plaintiff designates as privileged and/or personal, Plaintiff shall include a brief statement explaining the basis for the designation.

It's basically Judge Cannon's list but from someone who isn't an idiot.

Again, this forces Trump to actually take a position in court. At least it doesn't require an affidavit under penalty of perjury.

-very little chance they can win on this; Judge Cannon's order does specify a process, "the Special Master will follow a precise workflow" – but the questions are: 1) does this contravene what Judge Cannon said? Only in the sense that it's not mutually exclusive and there's no sense that is key to adjudicating privilege; 2) does it go beyond his grant of authority? Laughably not so

Paragraphs 2(b) and 2(c), has "all powers necessary to"

b. Conducting a privilege review of the Seized Materials and making recommendations to the Court as to any privilege disputes between the parties (including any formal assertions of executive privilege);

saying "I need more information than the plan initially required" seems perfectly reasonable

c. Identifying personal items/documents and Presidential Records in the Seized Materials and making recommendations to the Court as to any categorization disputes between the parties;

FUNNIEST

c) Motions

Trump sez: “As noted in our proposed agenda in advance of the status conference (ECF 97 at 2) **we reiterate our view that “Judge Cannon was aware of the likelihood of eventual Rule 41(g) litigation and established a process by which the Special Master would evaluate any such claims before reporting and recommending to the Court...we are concerned that the [Amended] Plan directs the Plaintiff to address whether Rule 41(g) litigation should be litigated under Case No. 9:22-MJ-08332-BER.” The District Court’s decision to exercise jurisdictional authority over matters surrounding the Mar-a-Lago search warrant was a hotly contested component of the litigation to date**, as was the establishment of a Special Master review. There is no indication in the appointment order that the District Court is contemplating a carve out of related litigation for a merits determination by the issuing magistrate for the warrant in question. **In the absence of a clear directive from the District Court on this issue, we respectfully suggest the briefing requirement be withdrawn from your final Plan.**

Don’t even try to say it’s not within his purview here, because again, it obviously is, because he was delegated “all powers necessary to ... Evaluating claims for return of property under Rule 41(g) of the Federal Rules of Criminal Procedure;” that’s paragraph 2(d).

5. DOJ’s reply

<https://storage.courtlistener.com/recap/gov.uscourts.flstd.618763/gov.uscourts.flstd.618763.121.0.pdf>

-no vendors will work with Trump, that’s funny

Plaintiff informed us this morning that none of the five document-review vendors proposed by the government before last Tuesday’s preliminary conference were willing to be engaged by Plaintiff. To avoid further delay in the vendor’s scanning and processing of the Seized Materials (defined to exclude “documents bearing classification markings”), the government issued a request for a task order this afternoon with a deadline of tomorrow (Wednesday, September 28, 2022) at noon.

So we’ll get a government contractor, and “Consistent with the Appointment Order (ECF 91 ¶ 14), the government expects Plaintiff to pay the vendor’s invoices promptly when rendered.”

-Proposes some minor date changes that will be adopted

-Answers Trump’s objections:

i) um, you telling us that’s all the documents seized is a condition precedent to the SM doing his job – “The Special Master needs to know that that he is reviewing all of the materials seized from Mara-Lago on August 8, 2022 – and no additional materials – before he categorizes the seized documents and adjudicates privilege claims.”

ii) that the Amended Case Management Plan has six categories (ECF 112, at 3) and the Appointment Order four (ECF 91, at 1) is entirely a function of the fact that the four categories in the Appointment Order speak of “privilege” in general and do not (as the Amended Case Management Plan does) differentiate between attorney-client and Executive privilege. The Amended Case Management Plan is entirely consistent with the Appointment Order. Plaintiff’s objection has no logical basis.

iii) Third, the Special Master’s request for briefing on a particular point of law is similarly consistent with the Appointment Order. The government will brief that point of law. It behooves Plaintiff to brief that point as well.

WHAM:

“Plaintiff brought this civil, equitable proceeding. He bears the burden of proof. If he wants the Special Master to make recommendations as to whether he is entitled to the relief he seeks, Plaintiff will need to participate in the process by categorizing documents and providing sworn declarations as the Amended Case Management Plan contemplates.”

I don't think Trump will sign a certification.

6. Trump Opposition to extension of time

<https://storage.courtlistener.com/recap/gov.uscourts.flsd.618763/gov.uscourts.flsd.618763.123.0.pdf>

-doesn't object to extension of time but

a)

In conversations between Plaintiff's counsel and the Government regarding a data vendor, the Government mentioned that the 11,000 documents contain closer to 200,000 pages.

b)

The Government also uses the opportunity of asking for an extension of deadlines to lecture Plaintiff's counsel with conclusory and antagonistic comments regarding counsel's privately filed objections to the Amended Case Management Plan. DOJ continues to mistake itself as having judicial authority. Its comments are not argument, but proclamations designed to steamroll judicial oversight and the Plaintiff's constitutional rights.

c)

On Monday, September 26, counsel for the Privilege Review Team provided Plaintiff's counsel with another example of filter failure. The email in question was identified by the “FBI case team,” and returned to the Privilege Review Team, which is characterizing the communication as non-privileged. Plaintiff believes the email falls squarely into the category of attorney-client privileged. The Government also provided the Special Master and the Plaintiff with its third version of the inventory in this case, with 53 new documents, clippings, or photos appearing across 16 of the 33 item numbers. A prior entry for “2 empty folders with ‘CLASSIFIED’ Banners” has disappeared from Item #33. The unilaterally imposed filter team, which made no effort to contact Plaintiff's counsel throughout its review process, has admitted to three breaches so far. All this before review by the Special Master and the Plaintiff. By way of this filing, Plaintiff is asking the Special Master to order disclosure of the names of each attorney and Special Agent who was exposed to materials eventually provided to the Privilege Review Team.

NEXT UP

-Plaintiff affidavit due October 7

-Gov't response due Oct. 14