

No. 22-13005-F

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

DONALD J. TRUMP,

Plaintiff-Appellee,

v.

UNITED STATES OF AMERICA,

Defendant-Appellant

On Appeal from the United States District Court
for the Southern District of Florida

**PLAINTIFF-APPELLEE DONALD J. TRUMP'S
OPPOSITION TO APPELLANT'S
MOTION TO EXPEDITE APPEAL**

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1-1(a)(2) of the Eleventh Circuit Rules, Appellee Donald J. Trump, submits this Notice of Certificate of Interested Persons and Corporate Disclosure Statement. The following have an interest in the outcome of this proceeding:

1. American Broadcasting Companies, Inc. (DIS)
2. Associated Press
3. Bloomberg, LP
4. Bratt, Jay I.
5. Brill, Sophia
6. Cable News Network, Inc. (WBD)
7. Cannon, Hon. Aileen M.
8. Caramanica, Mark Richard
9. CBS Broadcasting, Inc. (CBS)
10. Corcoran, M. Evan
11. Cornish, Sr., O'Rane M.
12. Cunningham, Clark
13. Dearie, Hon. Raymond J.
14. Dow Jones & Company, Inc. (DJI)

15. Edelstein, Julie
16. Eisen, Norman Larry
17. E.W. Scripps Company (SSP)
18. Finzi, Roberto
19. Fischman, Harris
20. Former Federal and State Government Officials
21. Fugate, Rachel Elise
22. Gonzalez, Juan Antonio
23. Gray Media Group, Inc. (GTN)
24. Gupta, Angela D.
25. Halligan, Lindsey
26. Inman, Joseph M.
27. Karp, Brad S.
28. Kessler, David K.
29. Kise, Christopher M.
30. Knopf, Andrew Franklin
31. Lacosta, Anthony W.
32. LoCicero, Carol Jean
33. McElroy, Dana Jane

34. Minchin, Eugene Branch
35. NBC Universal Media, LLC (CMCSA)
36. Patel, Raj K.
37. Rakita, Philip
38. Reeder, Jr., L. Martin
39. Reinhart, Hon. Bruce E
40. Rosenberg, Robert
41. Seidlin-Bernstein, Elizabeth
42. Shapiro, Jay B.
43. Shullman, Deanna Kendall
44. Smith, Jeffrey
45. The New York Times Company (NYT)
46. The Palm Beach Post
47. Times Publishing Company
48. Tobin, Charles David
49. Trump, Donald J.
50. Trusty, James M.
51. United States of America
52. Wertheimer, Fred

53. WP Company, LLC

Dated: October 3, 2022

/s/ Christopher M. Kise
Christopher M. Kise

ARGUMENT¹

1. In response to the Government’s Motion to Expedite Appeal, President Trump respectfully proposes the following schedule.

a. October 14, 2022: Opening Brief for Defendant-Appellant
United States

b. November 14, 2022: Response Brief for Plaintiff-Appellee
Donald J. Trump

c. November 21, 2022: Reply Brief for Defendant-Appellant
United States

2. In sum, President Trump opposes the Government’s request for expedited briefing only to the extent that it seeks to afford him less than the 30 days provided under the Rules to respond to the Government’s principal brief. *See* Fed. R. App. P. 31(a)(1); 11th Cir. R. 31-1(a)).

¹ President Trump disagrees with and objects to the Government’s distorted and argumentative presentation of facts concerning the unprecedented raid of his home, its conduct in these proceedings, and the procedural history of this case. For purposes of succinctness and judicial economy, President Trump incorporates by reference the facts and procedural history set forth in his Response in Opposition to the Government’s Motion for Partial Stay dated September 20, 2022.

3. President Trump also opposes the Government's request to expedite oral argument in this case. President Trump respectfully submits that argument in this case should be scheduled in a manner consistent with 11th Cir. R. 34-4 and the Court's Internal Operating Procedures. President Trump believes setting oral argument in January 2023 or later is appropriate.²

4. On September 8, 2022, the Government noticed its appeal of an "order of the district court entered on September 5, 2022, Docket Entry 64." See Notice of Docketing Civil Appeal at Ex. A. Thereafter, the Government requested and obtained from this Court a partial stay of that order.

5. President Trump will be prejudiced if this appeal is expedited. The Government proposes to file its principal brief on October 14, 2022 – 36 days after the Government noticed its appeal in this matter. Conversely, the Government proposes that President Trump should have only 21 days to respond to their principal brief. This kind of disparity is

² Pursuant to 11th Cir. R. 31-1(a), briefing in this matter should be completed December 9, 2022. If the Court adopts the schedule proposed above, briefing will be completed by November 21, 2022 – shortly before the Thanksgiving holiday. In either event, a January 2023 or later setting will accord the parties and the Court sufficient time to prepare for oral argument.

not contemplated by principles of due process or fairness. Moreover, as the Court may be aware, the parties are engaged fully in performing the tasks required under the expedited Special Master schedule. This requires counsel for President Trump to conduct a review of approximately 11,000 documents (comprised of an estimated 200,000 pages of information), categorize those documents and litigate any disputes before the Special Master and the District Court during the same time period counsel is tasked with preparing an opposition brief under the Government's proposed expedited schedule. Certainly, the Government is free to file its brief at its earliest convenience. However, no good cause has been shown as to why President Trump should have significantly less time than the Government and less time than that provided under the Rules to prepare and brief his arguments before this Court in this unprecedented case.

6. The Government, on the other hand, cannot possibly be prejudiced if this appeal is not expedited and President Trump is afforded the few extra days provided under the Rules to file his brief.

7. Additionally, President Trump respectfully requests that oral argument be scheduled at the completion of briefing in a manner

consistent with 11th Cir. R. 34-4 and with the Court's own Internal Operating Procedures, which provide for a separation between the calendaring of appeals and assignment of judges. 11th Cir. R. 34-4, IOP 2B ("To insure complete objectivity in the assignment of judges and the calendaring of appeals, the two functions of judge assignment to panels and calendaring of appeals are intentionally separated."). President Trump submits that oral argument in January 2023 or thereafter is appropriate.

8. Finally, the extraordinary circumstances herein presented — an investigation of the 45th President by the administration of his political rival — would countenance against any rush to judgment. Indeed, the public interest is served best by transparent and thorough consideration of all the issues. The Government has not and cannot possibly articulate any real risk of loss or harm resulting from a more deliberative process.

CONCLUSION

For the foregoing reasons, the Court should deny the Government's Motion to Expedite Appeal to the extent that it (i) limits the time to available to President Trump to fully his brief this appeal; and (ii) adopts an abbreviated oral argument schedule inconsistent with 11th Cir. R. 34-4 and with the Court's own Internal Operating Procedures.

Dated: October 3, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 780 words. This brief also complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it was prepared using Microsoft Word in Century Schoolbook 14-point font, a proportionally spaced typeface.

/s/ Christopher M. Kise
Christopher M. Kise

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of October, 2022, I caused the foregoing to be electronically filed using the Court's CM/ECF System, thereby serving all registered users in this case by operation of that electronic filing system.

/s/ Christopher M. Kise
Christopher M. Kise