

Hon. Arthur Engoron

From: Hon. Arthur Engoron
Sent: Thursday, February 8, 2024 11:48 AM
To: kevin.wallace@ag.ny.gov; Clifford Robert; Alina Habba; ckise@continentalpllc.com; chris kise; Amer, Andrew; Faherty, Colleen; Solomon, Louis
Cc: Allison R. Greenfield
Subject: RE: People v. Trump, et al., No. 452564/2022

Dear Mr. Robert,

When I sent my straightforward, narrow request for information about possible perjury by Allen Weisselberg in the subject case, I was not seeking to initiate a wide-ranging debate with counsel. However, your misleading response grossly mischaracterizes the letter that I wrote, and I feel compelled to respond.

Arguing against judicial notice is attacking a straw person, as I have not taken, do not plan to take, and did not suggest or hint that I would take judicial notice of the subject New York Times article or the contents thereof. Similarly, I have not taken, do not plan to take, and did not suggest or hint that I would take the Times article into consideration in my findings of fact. Similarly, I have not planned, do not plan, and did not suggest or hint that I would invoke falsus in uno based on the story. Any such invocation would be based on his trial testimony and/or a guilty plea.

However, if, tomorrow, Mr. Weisselberg publicly confesses to having committed perjury about a significant matter in the case before me, or if he pleads guilty to such perjury at any time before I issue my final decision, I will research and consider what the law allows. I take seriously my obligation to find the facts and determine the truth. To that end, I find it appropriate to have reached out to counsel for Mr. Weisselberg, who is a defendant in this case, to inquire as to her knowledge of this serious allegation. Indeed, Rule 3.3(a)(3) provides that "If a ...lawyer's client...offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." This obligation applies "even if compliance requires disclosure of information otherwise" confidential. To "know" of the falsity the lawyer must have "actual knowledge," but such knowledge "may be inferred from circumstances."

You and your co-counsel have been questioning my impartiality since the early days of this case, presumably because I sometimes rule against your clients. That whole approach is getting old.

Your invocation of Michael Cohen's testimony and veracity is completely out of bounds. You have already submitted your post-trial briefs and made your final arguments. I am not reopening the case, but if someone pleads guilty to committing perjury in a case over which I am presiding, I want to know about it.

Justice Engoron