

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA)	
)	INDICTMENT NO.
v.)	23SC188947
)	
DONALD JOHN TRUMP, et al,)	HON. SCOTT F. McAFEE
)	SUPERIOR COURT JUDGE
Defendants.)	

ATTORNEY GABE BANKS'S MOTION TO QUASH SUBPOENA

COMES NOW Undersigned Counsel Gabe Banks, Esq., and hereby files this "Motion to Quash Subpoena." *See* Subpoena attached hereto as Exhibit A. In support of his motion, undersigned counsel would show this Honorable Court the following:

INTRODUCTION

Instead of focusing his efforts on defending the underlying criminal charges pending against him in the above-styled indictment, Defendant Roman, through his counsel, has instead launched a complete fishing expedition by attempting to issue subpoenas to various witnesses in hopes to muddy the waters and obtain relief to which he is not entitled. First, Defendant Roman cast his fishing rod by issuing subpoenas to several employees of the District Attorney's Office to appear as witnesses at the

February 15TH hearing on his Motion to Dismiss the Indictment and Disqualify the District Attorney's Office. Upon information and belief, neither Defendant Roman nor his counsel has talked to a single employee who he subpoenaed.

Now, Defendant Roman seeks to cast a broader net by attempting to issue subpoenas to individuals who may happen to know the District Attorney, Fani T. Willis. Again, however, neither Defendant Roman nor his counsel have talked to any of these additional witnesses, including undersigned counsel. Although efforts are underway to confirm this assertion, it appears that Defendant Roman and his counsel have undoubtedly been fed inaccurate information—to put it mildly—and relied upon said information to issue subpoenas to various witnesses without doing their due diligence to confirm the veracity of the information they have been fed. This is not what the practice of law is intended for, and these efforts should be promptly brought to a close.

In sum, neither Defendant Roman nor his counsel has spoken to **any** of the witnesses for whom subpoenas have been issued, including undersigned counsel. And, neither of them can state with any degree of accuracy or good faith the content of the anticipated testimony of any

relevant issue currently before this Honorable Court. Instead, Defendant Roman's and his counsel's efforts can only be seen as a *complete fishing expedition* aimed to unnecessarily burden and/or harass their desired "catch of the day." For these reasons and for the reasons outlined below, the subpoena of undersigned counsel should be quashed as a matter of law.

As a practical matter, undersigned counsel joined this noble profession back in 1999 after graduating law school. During his 20-plus years of practicing law, undersigned counsel has never received a subpoena from another member of the Bar without that other member first calling undersigned counsel and discussing the need for his sworn testimony and the subject matter of said testimony. In a word, issuing a subpoena to another member of the Bar without consulting with that member first, *although not unlawful, reeks of unprofessionalism*. Of course, Defendant Roman's counsel never extended this professional courtesy. These type of tactics and gamesmanship is why our noble profession is less noble.

LEGAL ARGUMENT AND AUTHORITY

"A trial court has discretion to quash an unreasonable and oppressive subpoena, and abuse of discretion is the appropriate standard of review in such situations." *Cronan v. JP Morgan Chase Bank, N.A.*, 336 Ga. App.

201, 205, 784 (2016) (overruled on other grounds), *citing Bazemore v. State*, 244 Ga. App. 460, 463 (2000) and O.C.G.A. § 24-13-23(b)(1).

Here, this Honorable Court should exercise its discretion and quash the subpoena of undersigned counsel. First, undersigned counsel has no knowledge, direct or indirect, of any relevant issue currently pending before this Honorable Court. Had Defendant Roman and/or his counsel extended professional courtesy to undersigned counsel and picked up the telephone and talked to undersigned counsel, they would have learned that undersigned counsel has no knowledge germane to any issue before this Honorable Court.

Moreover, issuing a subpoena without first attempting to determine whether the witness you seek to examine has anything relevant to say, can only be seen as a fishing expedition or an attempt to harass and/or embarrass the subpoenaed witness. Again, undersigned counsel has no knowledge, direct or indirect, of any relevant issue currently pending before this Honorable Court.

[signature page to follow]

WHEREFORE, undersigned counsel respectfully requests that this Honorable Court quash the subpoena for the above stated reasons.

Respectfully submitted this 8th day of February, 2024.

BANKS WEAVER LLC

/s/ Gabe Banks

Gabe Banks
Georgia Bar No. 721945
Tennessee Bar No. 021377

100 Peachtree Street, NW
Suite 260
Atlanta, Georgia 30303
(404) 891.9280 (ofc.)
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EXHIBIT A

Ashleigh Merchant
THE MERCHANT LAW FIRM, P.C.
701 Whitlock Avenue
Suite J-43
Marietta, Georgia 30064

CERTIFIED MAIL™



7011 2000 0002 0569 7783



GABE BANKS
Banks Weaver Law
100 PEACHTREE ST NW STE 2600
ATLANTA GA 30303-1932



\$8.690
US POSTAGE
FIRST-CLASS
FROM 30064
02/02/2024
stamps
endicia



06250014950448



THE MERCHANT LAW FIRM

TRIAL AND APPELLATE ATTORNEYS

Ashleigh B. Merchant

701 Whitlock Avenue, S.W.
Suite J-43
Marietta, Georgia 30064
Telephone: (404) 510-9936
Facsimile: (404) 592-4614
ashleigh@merchantlawfirm.com

January 31, 2024

VIA CERTIFIED MAIL REGISTERED RETURN RECEIPT REQUESTED

Gabe Banks
Banks Weaver Law
100 Peachtree Street, N.W.
Suite 260
Atlanta, Georgia 30303

***Re: State v. Michael Roman; Case No. 23SC188947; Superior Court of
Fulton County; Subpoena For Attendance At Hearing***

Dear Mr. Banks:

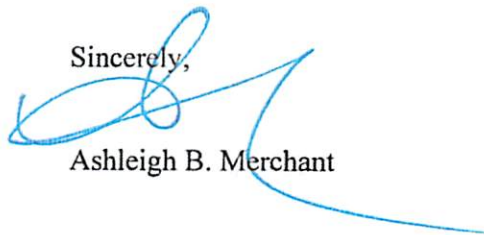
I am counsel for Michael Roman, the defendant in the above-referenced matter. Enclosed please find a subpoena issued pursuant to O.C.G.A. § 24-13-21, *et seq.* commanding your appearance as a witness on behalf of Mr. Roman at Mr. Roman's pre-trial hearing, which is scheduled to begin on **Thursday, February 15, 2024, at 9:30 a.m. before Honorable Scott McAfee, at the Superior Court of Fulton County, Courtroom 5A, 136 Pryor Street, S.W., Atlanta, Georgia 30303.**

We understand that you may wish to recover travel, lodging or other expenses associated with your attendance, please note that when a subpoena, such as yours, is issued on behalf of the accused in a criminal case, Georgia law provides that "witness fees and mileage need not be tendered." O.C.G.A. § 24-13-25. We apologize for any inconvenience this may cause you, and we appreciate your anticipated cooperation with the enclosed subpoena.

While you are under no obligation to speak with me outside of court, if you are willing to speak with me for a few minutes it will greatly enable me to narrow down the questions I will ask you on the witness stand and save both you and the Court considerable time. Please let me know if you can speak for a few minutes in advance of the court date.

State v. Roman
Letter to Defense Witnesses Encl. Witness Subpoena
February 2, 2024
Page 2

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ashleigh B. Merchant', with a long horizontal flourish extending to the right.

Ashleigh B. Merchant

ABM/ssb

Encl.

cc: John B. Merchant, III (*w/encl. via e-mail only*)

WITNESS SUBPOENA

State of *GEORGIA*, Fulton County

TO: Gabe Banks
Banks Weaver Law
100 Peachtree Street N.W.
Suite 260
Atlanta, Georgia 30303

You are hereby commanded, that laying all other business aside, you be and appear at the Superior Court before the presiding Judge in the Fulton County Courthouse, Atlanta, GA to be held on February 15, 2024 at 9:30am in the Courtroom 5A, 136 Pryor Street S.W., Atlanta, Georgia 30303 then and there to be sworn as a witness for the Defendant in the case of State v. Michael Roman, Case Number 23SC188947.

You are required to attend from day to day and from time to time until the matter is disposed of.

HEREIN FAIL NOT, under the penalty of law by authority of the Honorable Scott McAfee, Judge of said court this 2/2/2024.

Any Questions Contact:
Ashleigh B. Merchant
701 Whitlock Ave. Suite J-43
Marietta, Ga. 30064
ashleigh@merchantlawfirmnpc.com
Phone No. 404-510-9936

Issued by Attorney for Defendant,
Clerk of Superior Court



Subpoena Issued by Attorney of Record for Defendant

RETURN OF SERVICE

I served the within witness Gabe Banks with this subpoena on 2-2-24 at 9:32 am/pm by: Y delivering to him/her in person, or by Y registered or certified mail.

Served by: 
Name and Title

"Pursuant to OCGA 24-13-21(c-h), this subpoena form is being provided to the attorney of record and shall be completed prior to service upon the witness. If an individual misuses a subpoena, he or she shall be subject to punishment for contempt of court and shall be punished by a fine of not more than \$300.00 or not more than 20 days imprisonment, or both. A witness may contact the Clerk of Court's office to verify this subpoena was issued for a valid case."

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true and correct copy of the within and foregoing *Motion to Quash* upon all parties or counsel of record via, United States Mail, hand delivery, email, and/or the Clerk's e-filing system.

This 8th day of Februray, 2024.

BANKS WEAVER LLC

/s/ Gabe Banks

Gabe Banks
Georgia Bar No. 721945
Tennessee Bar No. 021377

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