

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA,

vs.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 23-80101-CR
CANNON/REINHART

**PRESIDENT DONALD J. TRUMP'S MOTION FOR LEAVE TO FILE SUR-REPLY
BASED ON NEWLY DISCOVERED EVIDENCE OF DISCOVERY VIOLATIONS,
MISREPRESENTATIONS AND POTENTIAL SPOILIATION**

President Donald J. Trump respectfully moves pursuant to Local Rule 7.1(c)(1) to file a Sur-Reply in support of his pending Motion for Adjournment of the May 9, 2024 deadline for CIPA § 5 Notice and Rule 16 expert disclosures (ECF No. 452).¹

President Trump filed his Motion for Adjournment of the Deadlines for Defendants' Rule 16 Expert Disclosures and CIPA § 5 Notice on April 13, 2024 (the "Motion for Adjournment"), and filed his Reply in Support of the Motion for Adjournment on April 18, 2024. *See* ECF Nos. 452, 461. However, it was not until May 3, 2024, that President Trump was notified that the Special Counsel's Office and members of the prosecution team failed to maintain the integrity of the contents of certain boxes obtained at Mar-a-Lago. *See* ECF No. 522.

President Trump first learned this information when the Special Counsel's Office admitted the same in its Response in Opposition to Waltine Nauta's Motion to Continue CIPA § 5 Notice and Rule 16 Disclosure Deadlines. *See* ECF Nos. 507, 522. As detailed in the proposed Sur-Reply, this new information establishes good cause for President Trump to be entitled to file a Sur-Reply

¹ A copy of President Trump's proposed Sur-Reply is attached to this Motion as **Exhibit 1**.

in support of his pending Motion for Adjournment, given that the associated discovery violations, misrepresentations to the Court and potential spoliation resulting from the mishandling of boxes obtained at Mar-a-Lago directly implicates the necessity for adjournment of the relevant deadlines. *First Specialty Ins. Corp. v. 633 Partners, Ltd.*, 300 F. App'x 777, 788 (11th Cir. 2008) (sur-reply should be allowed “when a valid reason for such additional briefing exists, such as where [a party] raises new arguments” and “a district court can abuse its discretion by failing to give the opposing party a chance to respond to *materials presented for the first time*”) (citations and internal quotation marks omitted) (emphasis added); *PB Prop. Mgmt., Inc. v. Goodman Mfg. Co., L.P.*, No. 3:12-CV-1366, 2015 WL 12938949, at *1 (M.D. Fla. Aug. 21, 2015) (allowing sur-reply when plaintiffs “introduced new evidence in their Reply”); see also *Hammett v. Am. Bankers Ins. Co.*, 203 F.R.D. 690, 695 n.1 (S.D. Fla. 2001) (“Because Plaintiff presented new arguments and a new theory . . . in her Reply the Court will grant Defendants’ Motion for Leave to File a Sur-Reply.”); *Trigeant Ltd. v. Petroleos De Venez., S.A.*, No. 08-80584-CIV, 2009 WL 10668636, at *3 (S.D. Fla. Feb. 10, 2009) (allowing surreply to allow parties to “address new issues”). Here, given that the Government first disclosed these critical discovery defects on May 3, 2024, President Trump could not have addressed same in any prior filing.

Therefore, good cause having been established, the undersigned respectfully requests the Court enter an order allowing President Trump to file the attached Sur-Reply in support of his Motion for Adjournment so that the Court may have a full briefing of the issues on the record in deciding the pending Motion for Adjournment.

Dated: May 6, 2024

Respectfully submitted,

/s/ Todd Blanche
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CERTIFICATE OF SERVICE

I, Christopher M. Kise, certify that on May 6, 2024, I electronically filed the foregoing document with the Clerk of Court using CM/ECF.

/s/ Christopher M. Kise
Christopher M. Kise