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Date: 10/15/2015 2:41:15 PM  
Subject: Abbeville Motion to Vacate Draft

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All:

First, let me please say that Roland and Bobby produced a great draft in a short time and tried mightily to pull together a diverse set of viewpoints into one document.

While it is not what the House would, ideally, like to argue there are significant portions of the draft that we could agree, with the other parties, to submit to the Court. There are two primary, conceptual concerns we have:

1) The House would like to move the "logistical" argument to the front of the document with some acknowledgement that it has not been made before. We think it's important, given how many times the separation of powers argument has been dismissed and ignored (despite its validity) that we highlight the different approach in this document and that the defendants are raising a new issue. As we discussed last week, we are happy to keep questions out of that discussion and to make blanket statements that even if the logistical questions are answered, those answers do not cure the underlying constitutional issues.

2) The House would like to streamline the documents. We simply believe it is too long as it is currently drafted. While every statement, case and citation in the draft is relevant, we simply do not believe it is all necessary. As with the letter previously sent to the Court, less may have the effect of being more in this document.

If the rest of you are generally (everyone reserving their right to disagree on particulars, of course) agreeable to these concepts, Emma and I are prepared to circulate an updated draft for everyone's consideration before the end of the day.

I am, as always, available and willing to discuss any of this with any combination of you.

Thanks,

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