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# Giuliani Admission 'Another Good Fact' For Trump Prosecutor

By **Phillip Bantz**

Law360 (July 27, 2023, 12:52 PM EDT) -- Rudy Giuliani's admission that he falsely accused two Georgia poll workers of rigging the 2020 election likely won't shield him from discovery requests in the defamation case and could even aid federal prosecutors in their election-interference probe of former President Donald Trump, experts say.

Giuliani **conceded** in a federal court filing in Washington, D.C., on Tuesday that, while serving as Trump's lawyer, he made "defamatory per se" statements that falsely accused poll workers Ruby Freeman and Shaye Moss of committing ballot fraud to sway the election in favor of President Joe Biden.

His admission came in response to Freeman and Moss seeking another round of sanctions against Giuliani for failing to hand over electronic evidence in the case. A judge previously sanctioned Giuliani about \$89,000 for discovery hold-ups.

The poll workers accused Giuliani of intentionally delaying discovery and failing to preserve key evidence, but Giuliani contended that the government seized that evidence in an unrelated investigation.

"While Giuliani does not admit to plaintiffs' allegations, he — for purposes of this litigation only — does not contest the factual allegations," Giuliani stated in the court filing, which also asserted that he "stipulates to all pertinent facts plaintiffs would need from him to establish liability, making discovery sanctions and further discovery from him unnecessary."

Giuliani later stressed in a video on social media that his stipulation was a tactical "admission arguendo" that he made "in order to reach the merits of the lawsuit."

"Let's make it clear. I have not admitted that I lied at any point. I haven't," Giuliani said. He also dismissed speculation that his admission signaled he was cooperating in any criminal cases against Trump.

"It sounds like Rudy, far from making a free confession of his sins, isn't conceding anything except what is strictly necessary to avoid his discovery obligations in the defamation action," former federal prosecutor Kevin O'Brien, a partner at Ford O'Brien Landy LLP, told Law360.

Marc Scholl of Lewis Baach Kaufmann Middlemiss PLLC added, "It raises questions as to why Giuliani made these concessions and what discovery material that Giuliani has failed to produce may hold as to his culpability and the culpability of others, including Trump."

Noting that Giuliani was already sanctioned for discovery delays, Andrew Weissmann, a New York University School of Law professor who also formerly served as a federal prosecutor, said, "You get the distinct impression that he's holding onto something that he does not want to produce."

Weissmann added, "I don't think it's going to work."

Attorneys for Giuliani and the poll workers did not respond to requests for comment.

While Giuliani admitted to the factual aspects of liability related to the workers' claims, he did not

stipulate to damages in the case. That means the workers could still be entitled to discovery that would be relevant to calculating damages, according to Weissmann.

"For instance, if they're seeking punitive damages, they would want to know if this was intentional, reckless or repeated violations that [Giuliani] made," Weissmann said. "The factual circumstances are going to be something that's relevant to a determination of the amount of damages."

That's a "plausible" argument, O'Brien said. But he believed the poll workers face the potentially difficult challenge of narrowing their discovery requests to avoid what the court might view as a fishing expedition. Also, Giuliani argued in his admission that any discovery related to damages "would be solely in possession of the plaintiffs."

The poll workers "have to be able to point to specific categories, documents or activities on Giuliani's part during certain periods that would allow such a discovery request to be somewhat manageable," O'Brien said.

Giuliani has confirmed that he voluntarily met with special counsel Jack Smith and his team of prosecutors probing Trump's alleged efforts to overturn the 2020 election. And Smith recently sent Trump a target letter in the probe, which indicates that a criminal **indictment is looming**. Trump also faces potential criminal **charges in Georgia** over alleged interference in the state's general election.

Smith's team has already charged Trump with hoarding and hiding classified documents after he left office. Trump has pled not guilty in that case.

Giuliani's defamation admission might not only fail to halt the discovery process in the poll workers' case, it could also end up bolstering the election interference criminal investigations centered on Trump, according to experts.

"Trump isn't guilty by association with Rudy, but there's a suggestion that they were acting in lockstep. Maybe Jack Smith can get Giuliani to say something to that effect," said Jennifer Beidel, a white-collar partner at Dykema Gossett PLLC.

She added, "This would suggest that Jack Smith will be looking at every communication between Giuliani and Trump in the relevant time period. Did they send a text message, email, Slack, WhatsApp or anything that corroborates that the former president knew Giuliani's statements were false?"

William "Widge" Devaney, a partner at Baker McKenzie and former federal prosecutor, described Giuliani's admission as "another good fact for Jack Smith."

"Smith could say this is all just part of a grand, master plan," Devaney said. "If it's just Giuliani, it might not go to Trump's intent, but if you take a look at the overall conspiracy, here was someone who admitted to lying about voter fraud in Georgia."

The poll workers are represented by Meryl C. Governski, Michael J. Gottlieb and M. Annie Houghton-Larsen of Willkie Farr & Gallagher LLP, John Langford, Rachel Goodman, Brittany Williams and Sara Chimene-Weiss of United to Protect Democracy, Von A. DuBose of DuBose Miller LLC and Kurt G. Kastorf of Kastorf Law LLC.

Giuliani is represented by Joseph D. Sibley IV of Camara & Sibley LLP.

The case is Freeman et al. v. Herring Networks Inc. et al., case number 1:21-cv-03354, in the U.S. District Court for the District of Columbia.

--Additional reporting by Katie Buehler. Editing by Nicole Bleier.