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October 26, 2019

Daniel S. Noble, Esq.
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C. 20515

Dear Mr. Noble:

I write in response to the letter of this evening sent by Chairman Schiff, Chairman Engel, and Acting Chair Maloney (the "House Chairs"). As the District of Columbia rules of professional ethics prohibit lawyers from communicating directly with represented parties, we are directing our response to you. We make three points.

First, contrary to the assertion of the House Chairs, the lawsuit Dr. Kupperman filed last night asking the Judicial Branch to resolve the constitutional dispute between the Legislative and Executive Branches was not coordinated, nor even discussed, with anyone in the White House before it was filed. The White House had no advance knowledge of the lawsuit, and we informed the White House Counsel that the suit had been filed at the same time we notified you and other members of House staff. To be sure, we did inform the White House Counsel that we expected the Committee to subpoena Dr. Kupperman, and as stated in the Complaint, we provided a copy of the subpoena to the White House Counsel when we received it. But these contacts were only for the purpose ascertaining whether the President would assert absolute testimonial immunity and instruct Dr. Kupperman not to testify.

Second, your clients apparently misapprehend the nature and purpose of Dr. Kupperman's lawsuit. The House Chairs' letter offers an extended argument on the merits of whether the absolute testimonial immunity asserted by the President is valid, but Dr. Kupperman's Complaint makes clear that he takes no position on whether the Legislative Branch or the Executive Branch should prevail on this issue. He seeks only to carry out whichever constitutional obligation the Judicial Branch determines to be lawful and binding on him. We believe the arguments of both Branches are substantial and are offered in good faith. The arguments advanced by the House Chairs are properly directed to the Court.

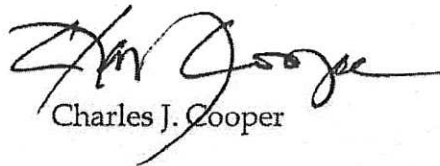
Daniel S. Noble, Esq.

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Third, as stated in the Complaint, it would not be appropriate for a private citizen like Dr. Kupperman to unilaterally resolve this momentous Constitutional dispute between the two political branches of our Government. If Dr. Kupperman appears pursuant to the House's subpoena notwithstanding the President's contrary instruction, the issue will be resolved – indeed, it will be mooted. The proper course for Dr. Kupperman, we respectfully submit, is to lay the conflicting positions before the Court and abide by the Court's judgment as to which is correct.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Cooper", written in a cursive style.

Charles J. Cooper