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August 19, 2025

**VIA ELECTRONIC FILING**

Hon. Matthew W. Brann, Chief Judge  
United States District Court  
Middle District of Pennsylvania  
Herman T. Schneebeli Federal Bldg.  
& U.S. Courthouse  
240 West Third Street, Suite 218  
Williamsport, PA 17701

Re: **United States v. Cesar Humberto Pina**  
**Crim. No. 25-436**

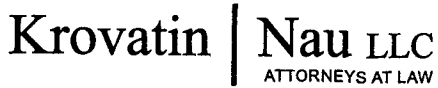
Dear Chief Judge Brann:

We write to address briefly an argument that the Government made for the first time in its “Post-Argument Brief” (ECF 66) (“Government Brief”), which was filed yesterday.

In Section III of its Brief, pp. 11-14, the Government argues that even if the Court concludes that Ms. Habba cannot serve as U.S. Attorney in any capacity, “dismissal of the Pina Indictment is not proper” for several reasons. Those issues were not the subject of any of the Court’s questions at the hearing on August 15, 2025, nor did any of the parties address them in their arguments.

With the Court’s indulgence, we must address a critical point that the Government made for the first time in its supplemental brief. The Government argues that dismissal of an indictment would be appropriate if a Government violation “substantially influenced the grand jury’s decision to indict,” *citing Bank of Nova Scotia v. United States*, 487 U.S. 250, 256 (1988). The Government continued:

Here, Ms. Habba did not present any evidence or the Indictment to the grand jury, nor did she attend those presentations to the grand jury. Nor does Pina identify any



Hon. Matthew W. Brann, Chief Judge  
August 19, 2025  
Page 2

other way in which Ms. Habba's precise role in the USAO-NJ affected the Indictment's substance.

Government Brief at 13.

In an accompanying footnote 4, the Government further stated, "We are submitting directly to the Court *ex parte* the relevant grand jury transcript and internal documents showing which AUSAs reviewed and approved the Indictment." *Id.*

Count Six of the Pina Indictment (ECF 44), which Ms. Habba signed, alleges that Mr. Pina bribed a public official in the City of Paterson, New Jersey. Prior to the return of the Indictment, Ms. Habba made public statements about her intention as U.S. Attorney to investigate several New Jersey public officials, including the Governor, the Attorney General and Sen. Booker's hometown of Newark, and she announced that she would specifically target the City of Paterson, stating, "*I'm looking at you, Paterson*" over the city's immigration policies.<sup>1</sup>

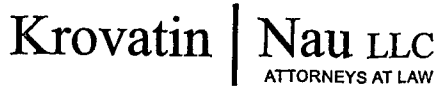
True to her word, during Ms. Habba's tenure as U.S. Attorney, the United States has sued four (4) New Jersey cities, including Paterson, accusing them of obstructing federal immigration authorities.

These actions and comments, and Ms. Habba's apparent preoccupation with the City of Paterson, raise questions, about whether "Ms. Habba's precise role in the USAO-NJ affected the Indictment's substance," to quote the Government. Specifically, did Ms. Habba influence the decision to include Count Six in the Indictment, which alleges that Mr. Pina bribed a public official in a "series of transactions of the City of Paterson"? Indictment (ECF 44), p. 13, ¶ 14. Did the AUSAs who "reviewed and approved the Indictment," discuss it with Ms. Habba? Specifically, did they discuss the inclusion of the Paterson bribery count in the Indictment? Did Ms. Habba review the prosecution memo in this case? Consistent with her public comments, did Ms. Habba instruct her prosecutors to prioritize investigations and prosecutions involving the City of Paterson?

These questions make it particularly objectionable that the Government has made an *ex parte* submission to Your Honor that includes "internal documents" about the AUSAs "who reviewed and approved the Indictment." Mr. Pina should have access to those documents and the Government should be compelled to respond to the questions posed about Ms. Habba's role, if any, in the inclusion of Count Six in the Pina Indictment. To the extent that Mr. Pina may have been

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<sup>1</sup> See Alina Habba targeted Democrats when she became New Jersey's top prosecutor. Now she's following through. - POLITICO, a copy of which is attached hereto as Exhibit A.



Hon. Matthew W. Brann, Chief Judge  
August 19, 2025  
Page 3

prejudiced by the inclusion of a Habba-influenced Count Six in the Indictment, it would lend further weight to, and constitute an additional ground in support of, his motion to dismiss the Indictment.

It is not Mr. Pina's intention to distract the Court's attention from the weighty issues about Ms. Habba's tenure as U.S. Attorney that the Court is already considering. However, the Government "opened the door" to this issue by including it for the first time in its Post-Argument Brief. We would be remiss if we did not respond in kind on behalf of Mr. Pina, certainly at the risk of some later argument that Mr. Pina waived this issue by not raising it now.

Respectfully submitted,

**KROVATIN NAU LLC**

/s/ Gerald Krovatin  
Gerald Krovatin, Esq.

**LOWELL & ASSOCIATES, PLLC**

/s/ Abbe David Lowell  
Abbe David Lowell, Esq.  
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John P. Bolen, Esq.

**DEMOCRACY DEFENDERS FUND**

/s/ Norman L. Eisen  
Norman L. Eisen, Esq.  
Joshua Kolb, Esq.

cc: All Counsel via ECF

# **EXHIBIT A**

# POLITICO



Congress Inside Congress Live Inside Congress newsletter

## Alina Habba targeted Democrats when she became New Jersey's top prosecutor. Now she's following through.

The 41-year-old Trump loyalist is under fire for charging a sitting House member with assault.



Alina Habba, interim U.S. attorney for the District of New Jersey, speaks with reporters outside the White House on March 26. | Francis Chung/POLITICO

By MATT FRIEDMAN, ERICA ORDEN and RY RIVARD

05/20/2025 04:47 PM EDT



From the moment she was named New Jersey's interim U.S. Attorney, Alina Habba made it clear she would use the office as a political bludgeon.

Habba talked to a far-right activist about turning "New Jersey red," announced investigations into its Democratic governor and attorney general over immigration, called out Sen. Cory Booker's hometown of Newark for crime and said "I'm looking at you, Paterson" over the city's immigration policies.

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Habba, who had no previous criminal record, was appointed President Donald Trump in three civil lawsuits filed in federal court in New Jersey this month to make her mark, when three Democratic House members and a progressive mayor running for governor showed up to inspect a migrant detention center in Newark.

Habba initially charged Newark Mayor Ras Baraka with trespass despite his compliance with federal agents' demands to leave the Immigration and Customs Enforcement facility's fenced-in area. She dropped the misdemeanor charge this week but escalated the May 9 dispute by charging Democratic Rep. LaMonica McIver with felony assault on law enforcement in the scuffle that ensued while they arrested Baraka.

Habba's decision drew plaudits on the right and protests from Democrats that she had crossed a "red line," with New Jersey Rep. Frank Pallone going as far as to liken her behavior to a "fascist regime."

It wouldn't be the first time New Jersey's U.S. Attorney's Office has been tainted by politics. Habba's predecessor Phil Sellinger testified in the corruption trial of Democratic former Sen. Bob Menendez, who had wanted Sellinger to go easy in a bank fraud case against a developer friend, Fred Daibes, who would later become his codefendant. Former Gov. Chris Christie, who also had no prosecutorial experience when he became U.S. attorney, built his political career as an anti-corruption crusader in the office, often targeting Democrats.

"Chris Christie used that office brilliantly for his own political purposes, but he didn't come at it with a meat cleaver the way she's approaching it," said Gerry Krovin, a prominent New Jersey defense lawyer and Democrat who has often represented clients prosecuted by the New Jersey U.S. attorney's office.

Few expect Habba to remain in the job once her 120-day interim appointment expires. She hasn't been formally nominated, and even if she is, New Jersey's Democratic senators don't look inclined to allow the nomination to proceed. Many in New Jersey's legal community doubt that the state's district court judges, who can appoint a U.S. attorney if the interim appointment expires, would vote to keep Habba in the role. A spokesperson for the New Jersey U.S. Attorney's Office did not respond to an email seeking comment.

out,” said attorney Nancy Erika Smith, a Democrat. “There’s fear out there.”

Smith played a role in Habba’s first New Jersey scandal, when she represented a 21-year-old former server at Trump National Golf Club in Bedminster. The server, Alice Bianco, claimed that Habba befriended her in 2021 when Bianco was planning to file a sexual harassment suit against the club, encouraged her to fire her lawyer and convinced her to sign a non-disclosure agreement in exchange for \$15,000. (The club and Habba both settled with Bianco).

Smith suggested Habba’s work on Bianco helped her cozy up to Trump, since she began representing him in a defamation case just weeks after Bianco signed the non-disclosure agreement, which is illegal in New Jersey.

“It’s red meat for the Fox News base that’s all she cares about,” Smith said. “She doesn’t care about law, she doesn’t care about ethics.”

Habba, 41, described herself at the Republican National Convention last year as a “feisty Jersey girl” and a first-generation Arab-American who is a devout Catholic. Her parents fled Iraq in the 1980s. Before college, she attended a private girls’ school in New Jersey and her LinkedIn page says she attended Lehigh University and then Widener University Commonwealth Law School in Pennsylvania. After law school, she clerked for state court Judge Eugene Codey.

Attorney General Pam Bondi appointed Habba to the office in March, a month after Trump’s expected pick for U.S. attorney, state Sen. Doug Steinhardt,

withdrew himself from the running because he was not certain he would win confirmation.

Just days into her tenure, New Jersey's legal community began raising alarms. Forty-two law professors at Seton Hall and Rutgers in an open letter published in the New Jersey Law Journal on April 2 called her "fundamentally unqualified" and said her public statements "show a lack of respect for the integrity and impartiality that is at the core of the Department of Justice."

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"The judges of the District Court should exercise the power entrusted to them by statute — they should refuse to rubber stamp an unqualified interim appointee and instead appoint a qualified U.S. attorney to lead federal law enforcement in New Jersey," the professors wrote.

Five days after taking office, Habba, outfitted in a bulletproof vest, attended a raid in Newark, personally escorting some of the defendants to law-enforcement vehicles after they had been handcuffed. The move raised eyebrows in the legal community, both because it is highly unusual for a U.S. attorney to attend an arrest and because her presence could have legal consequences.

"All in all, it's probably better if our prosecutorial chiefs do not do that just for appearances sake," said Stephen Gillers, a professor at New York University law school who specializes in legal ethics. He added that "as U.S. attorney, her conduct in the field may be subject to investigation or challenge by the defense lawyers, and it's best to avoid that if possible."

As Trump's lawyer, Habba repeatedly drew the ire of judges before whom she appeared. In Trump's civil fraud trial against the New York Attorney General's office, she complained in court about "eye rolls and constant whispering" from the judge's principal law clerk. It was one of the actions that prompted the judge, Justice Arthur Engoron, to issue a gag order preventing Trump's attorneys from making public remarks about communications between Engoron and his staff.

Engoron eventually fined Habba and four other Trump attorneys \$7,500 each for repeating legal arguments that had previously failed and had been deemed "borderline frivolous." (The attorneys are appealing those fines along with the judgment against Trump and his adult sons.)

In Trump's second trial against E. Jean Carroll, Habba attempted to use a slide in her closing argument that included material she hadn't entered as evidence.

U.S. District Judge Lewis Kaplan threatened to detain her. “You are on the verge of spending some time in the lockup,” he told her. “Now, sit down,” he said angrily.

U.S. District Court Judge Donald Middlebrooks fined Habba and Trump nearly \$1 million in sanctions for filing a lawsuit against Hillary Clinton and dozens of former Justice Department and FBI officials that the judge called “completely frivolous, both factually and legally, and which was brought in bad faith for an improper purpose.”

Still, she has won praise from some lawyers who have worked with her. “Alina is an incredibly talented lawyer who has proven to be both fearless and loyal, two important characteristics to the president,” said Joe Tacopina, who represented Trump alongside Habba during the first Carroll trial.

State Sen. Joe Pennacchio, a Republican who was New Jersey co-chair of Trump’s 2016 and 2020 campaigns, said Habba “did try to temper” her actions by dropping the charges against Baraka.

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“They’ve got to draw some type of line in the sand in some way,” Pennacchio said. “No one’s going to jail for this, but it’s going to be a little more of a hassle that [McIver] is going to have to defend herself and explain what she did.”

But keeping politics out of her day job appears to be somewhat of an ongoing challenge for the first-time prosecutor. In an interview with far-right activist Jack Posobiec just before she took office, Habba suggested New Jersey could swing Republican.

“We could turn New Jersey red. I really do believe that,” Habba said. “Hopefully while I’m there I can help that cause. I’m not a political person in that role, but the one thing I just want to do is make it safer.”

A partisan office could present problems for prosecutors, police and, Habba’s critics warn, the public.

New Jersey Attorney General Matt Platkin, who was appointed to the post by Democratic Gov. Phil Murphy and who Habba said she is investigating, said in a recent interview with MSNBC that Habba’s office has had “no interest” in working with the state on joint law enforcement activities and warned of the risks. “We saw what happens in 9/11 when law enforcement agencies aren’t communicating,” Platkin said.

RAS BARAKA, LEGAL, BONNIE WATSON COLEMAN, LAMONICA MCIVER

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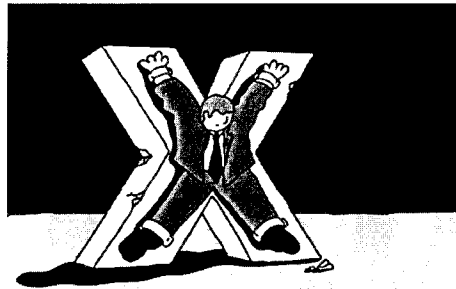
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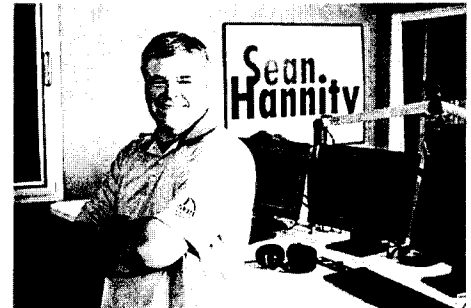


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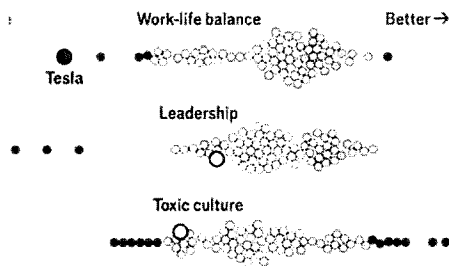
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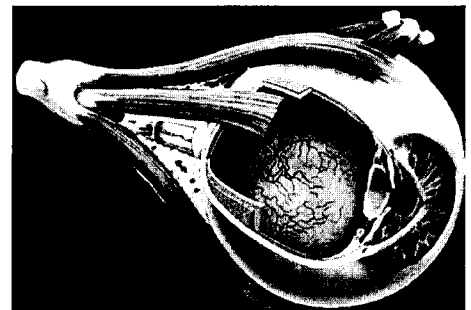


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