

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York,

Plaintiff,

-against-

DONALD J. TRUMP, *et al.*,

Defendants.

Index No. 452564/2022

AMENDED ORDER

Hon. Arthur Engoron

Pursuant to the video conference held on August 29, 2023, and without prejudice to any currently pending motion, it is hereby ORDERED that the parties shall adhere to the following schedule for the exchange and submission of pre-trial materials, including materials required by Sections 202.20-h, 202.34 and 202.37 of the Uniform Rules for the Supreme Court:

I. WITNESSES

A. Witness Lists

1. The parties shall exchange and submit to the Court preliminary witness lists on September 8, 2023. Each party shall e-file and submit to the Court a final witness list on September 27, 2023, following that day's final pre-trial conference. Each witness list shall identify: (i) the witnesses each party intends to call; (ii) whether each witness is a fact witness or an expert witness; and, to the extent practicable (iii) the order in which they are expected to testify. If a witness is listed as an expert, the parties shall briefly state the subject of the expert's testimony.

B. Presentation of Witnesses

2. The parties retain the right to: (i) rely upon the testimony of any witness(es) identified by or called by the other party; (ii) call any witness on the other party's witness list; and (iii) call or introduce testimony from any witness(es) necessary for impeachment or rebuttal purposes, if previously identified.

3. If a party determines that testimony from a witness not on the final witness list becomes necessary, they may apply to the Court, by letter application not to exceed two pages, at least 48 hours prior to when the witness will be called, for permission on good cause shown to add the witness. The opposing party may respond by letter not to exceed two pages within 24 hours of receiving the letter application.

4. Each party will make any witness that is under its control available to testify at trial on the date scheduled without the need for a subpoena.

5. A party that intends to call a witness controlled by the other party shall give the controlling party 72 hours' notice in advance of the date it intends to call the witness, and five days' notice for any witness that resides outside the State of New York.

6. When any party calls a non-party witness to testify, every other party may examine that witness for all purposes, with the intent of minimizing the need to have such witness return to court.

7. The parties shall exchange deposition designations, counter-designations, and reply designations for any witness they intend to call who is unavailable in the manner described in Section III.

II. FINAL EXHIBIT LIST AND EVIDENTIARY ISSUES

8. All exhibits each party intends in good faith to use at trial, including exhibits used solely for cross-examination—but excluding purely demonstrative exhibits, rebuttal exhibits, and exhibits needed for reactive cross-examination or impeachment—shall be identified on the party’s exhibit list. The exhibit lists shall identify each exhibit by unique number (*i.e.* “PX [Exhibit Number]” and “DX [Exhibit Number]”), date, a brief description, Bates range (if applicable), and include a placeholder for the opposing party’s objections. The parties shall exchange proposed exhibit lists on September 8, 2023.

9. On September 26, 2023, the parties shall exchange their initial objections to the exhibits included on the other party’s proposed exhibit list, and will also disclose any additions or deletions to their proposed lists. The parties shall, in good faith, include all of the exhibits they intend to introduce at trial in the lists exchanged on September 26, 2023, and any further additions shall be kept to a minimum and shall be disclosed at the earliest practicable time and at least one business day before being introduced at trial. On September 27, 2023, the parties (i) shall exchange and submit to the Court their exhibit lists, which shall incorporate the parties’ objections, and (ii) shall provide stamped, electronic copies of each exhibit on the exhibit list to the Court and the opposing parties. Any objection to an exhibit previously noted on the exhibit lists or otherwise must be raised at trial by the objecting party at the time the exhibit is sought to be admitted into evidence for a ruling by the Court or such objection shall be deemed waived. No exhibit shall be considered evidence in this case unless it is (i) deemed admitted without objection from the opposing party, or (ii) admitted by the Court with or without objection from the opposing party.

10. Purely demonstrative exhibits need not appear on the exhibit lists. The parties shall make a good faith effort to exchange any demonstrative exhibit described in this

paragraph two business day before the trial day on which those exhibit will be used, and the Parties will make every effort to disclose all demonstrative exhibits by 8:00 p.m. on the day before the trial day on which those exhibits will be used. However, if a demonstrative exhibit described in this paragraph is prepared in response to testimony that was given for the first time at trial, it shall be provided to counsel for the opposing party at the earliest practicable time and counsel for the opposing party shall be granted sufficient time to review and object to the same. This shall not be construed as a limitation on a party's right to create demonstrative exhibits during the course of testimony at trial; nor shall it require the advance exchange of exhibits that are merely excerpts, enlargements, highlights, charts, or graphs of information contained in trial exhibits. The parties reserve the right to object to any demonstrative exhibit.

11. The parties shall retain the right to introduce additional evidence not included on their exhibit lists, whether in the form of exhibits or testimony, in rebuttal to any evidence introduced by any party in its case-in-chief.

III. DEPOSITION DESIGNATIONS

12. The parties shall exchange designations for deposition testimony to be played or read at trial five business days before the testimony will be played or read in court. The designations shall specify the name of the deponent, the date of the deposition, and the pages and lines of testimony proposed to be played or read.

13. The parties shall exchange objections and counter-designations for deposition testimony to be played or read two days later, three days before the testimony will be played or read in court.

14. The parties shall exchange responsive objections and reply designations for deposition testimony to be played or read one day later, two days before the testimony will be played or read in court.

15. The parties shall e-file and submit to the Court all deposition designations one day before it is offered in court.

16. If a witness who is on a party witness list, who was previously deposed, becomes unavailable that party may offer designations for testimony from that witness' deposition to be read, and shall do so at the earliest practicable time to allow the other party to counter-designate.

17. The provisions above shall not affect in any way the parties' ability to use deposition testimony for impeachment purposes.

IV. PRE-TRIAL MOTIONS

18. In accordance with the Preliminary Conference Order, the parties shall submit any pre-trial motions, including all motions in limine, by September 22, 2023.

V. PROPOSED FACTS TO BE PROVEN AT TRIAL

19. Each party shall e-file and submit to the Court a list of proposed facts to be proven at trial on September 26, 2023. Each list may incorporate, and need not repeat, facts stated in a Rule 202.8-g Statement.

VI. PRE-TRIAL CONFERENCE

20. The Final Pre-Trial Conference shall remain as scheduled for September 27, 2023, at 10:00 a.m.

VII. OPENING STATEMENTS

21. Plaintiff will have 90 minutes for opening statements. Defendants will have 120 minutes for opening statements, divided as they determine among counsel for each Defendant.

Defendants reserve the right to request additional time for opening, given the uncertainty regarding the claims to be tried and the scope of the proceeding.

VIII. POST-TRIAL PROPOSED FINDINGS OF FACT AND MEMORANDA

22. Each party shall e-file and submit to the Court a post-trial brief, setting forth proposed findings of fact and conclusions of law on a schedule to be determined by the Court.

IX. TRIAL TIME

23. The trial is scheduled to begin on October 2, 2023 and to end by December 22, 2023. The parties may request additional time should it become necessary. The Court will sit for trial every business day during this period from 10:00 a.m. to 1:00 p.m. and from 2:15 p.m. to 4:30 p.m., except on Fridays where the trial day will end at 1:00 p.m. to allow the Court to attend to other business.

Dated: New York, New York
September 8, 2023



Hon. Arthur Engoron, J.S.C.