

SUMMARY STATEMENT ON APPLICATION FOR EXPEDITED SERVICE AND/OR INTERIM RELIEF

(SUBMITTED BY MOVING PARTY)

Date: November 15, 2023

Case # 4245/27: 7;

Title of Matter: Donald J. Trump, et al. v. Hon. Arthur F. Engoron, et al. Index/Indict/Docket #

Appeal by: Order Judgment of Decree Supreme Surrogate's Family County Court entered on 20

Name of Judge: Notice of Appeal filed on 20

If from administrative determination, state agency

Nature of action or proceeding: Original Proceeding

Provisions of order judgment decree appealed from

This application by appellant respondent is for interim stay of enforcement of two unconstitutional gag orders and imposition of sanctions thereunder pending a full panel determination of Article 78 petition brought in the nature of mandamus/prohibition.

If applying for a stay, state reason why requested Supreme Court's gag orders entered during the non-jury trial in the underlying proceeding are unconstitutional, and sanctions imposed thereunder are in violation of the Judiciary Law and Rules of this Court.

Has any undertaking been posted No If "yes", state amount and type

Has application been made to court below for this relief No Disposition Has there been any prior application here in this court No If "yes", state dates and nature

Has adversary been advised of this application Yes Does he/she consent

Attorney for Movant

Attorney for Opposition

Name Clifford S. Robert and Michael Madaio

Kevin Wallace, Esq. and Colleen Faherty, Esq.

Address Robert & Robert PLLC, 526 RXR Plaza, Uniondale

People of the State of New York, by Letitia James

NY 11566/Habba Madaio & Associates LLP, 112 West

Attorney General of the State of New York

34th Street, 17th and 18th Floors, NY, NY 10120

28 Liberty Street, NY, NY 10005

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kevin.wallace@ag.ny.gov;

Appearing by _____

colleen.faherty@ag.ny.gov

(Do not write below this line)

DISPOSITION

Justice

Date

Motion Date _____ Opposition _____ Reply _____

EXPEDITE _____ PHONE ATTORNEYS _____ DECISION BY _____

ALL PAPERS TO BE SERVED PERSONALLY.

Court Attorney

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

-----)
In the Matter of the Application of:) Case No.'4245/27: 7;

DONALD J. TRUMP, DONALD TRUMP, JR.,)
ERIC TRUMP, ALLEN WEISSELBERG,)
JEFFREY MCCONNEY, THE DONALD J.) **ORDER TO SHOW CAUSE**
TRUMP REVOCABLE TRUST, THE TRUMP)
ORGANIZATION, INC., THE TRUMP)
ORGANIZATION, LLC, DJT HOLDINGS)
LLC, DJT HOLDINGS MANAGING)
MEMBER, TRUMP ENDEAVOR 12 LLC, 401)
NORTH WABASH VENTURE LLC, TRUMP)
OLD POST OFFICE LLC, 40 WALL STREET)
LLC, and SEVEN SPRINGS LLC,)

Petitioners,)

For a Judgment Under Article 78 of the CPLR)

-against-)

THE HONORABLE ARTHUR F. ENGORON,)
J.S.C., and PEOPLE OF THE STATE OF NEW)
YORK by LETITIA JAMES, ATTORNEY)
GENERAL OF THE STATE OF NEW YORK,)

Respondents.)
-----)

UPON reading and filing the annexed Affirmation of Urgency of Clifford Robert, dated November 15, 2023 and the exhibits annexed thereto; the Verified Joint Article 78 Petition dated November 14, 2023 and the exhibits annexed thereto; and upon all the pleadings and proceedings heretofore had herein, and sufficient cause having been shown,

LET Respondents, by their attorneys, show cause before this Court, at the courthouse thereof, located at 27 Madison Avenue, New York, New York 10010, on the ____ day of November, 2023, at _____, or as soon thereafter as counsel may be heard, why an order pursuant to Article 78 of the Civil Practice Law and Rules should not be made and entered:

- (a) on the first cause of action, annulling and vacating Supreme Court’s October 20, 2023 (NYSCEF Doc. No. 1584), and October 26, 2023 (NYSCEF Doc. No. 1598), summary findings of contempt as in violation of lawful procedure under CPLR § 7803(3);
- (b) on the second cause of action, annulling and vacating Supreme Court’s October 20, 2023 (NYSCEF Doc. No. 1584), and October 26, 2023 (NYSCEF Doc. No. 1598), summary findings of contempt as in excess of Supreme Court’s jurisdiction pursuant to CPLR § 7803(2);
- (c) on the third cause of action, finding that Supreme Court’s gag order entered on the record on October 3, 2023, and so-ordered on October 26, 2023, (NYSCEF Doc. No. 1619) is in excess of Supreme Court’s jurisdiction under CPLR § 7803(2);
- (d) On the fourth cause of action, finding that Supreme Court’s gag order entered on November 3, 2023 (NYSCEF Doc. No. 1631), is in excess of Supreme Court’s jurisdiction under CPLR § 7803(2); and
- (e) granting such further and additional relief as the court deems just and proper.

Sufficient cause therefore appearing, it is

ORDERED that enforcement of Supreme Court’s October 26, 2023, and November 3, 2023, orders is stayed pending the resolution of this proceeding; and it is further

ORDERED that opposition papers, if any, are to be served on Petitioners’ counsel via e-filing on or before the ___ day of November 2023; and it is further

ORDERED that reply papers, if any, are to be served on Respondents’ counsel via e-filing on or before the ___ day of November 2023; and it is further

ORDERED that service of a copy of this Order to Show Cause and the papers upon which it is based, be made on or before November ____, 2023, by e-filing same shall be deemed good and sufficient service thereof.

Associate Justice
Appellate Division: First Department

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

-----)
DONALD J. TRUMP, DONALD TRUMP, JR.,)
ERIC TRUMP, ALLEN WEISSELBERG,)
JEFFREY MCCONNEY, THE DONALD J.)
TRUMP REVOCABLE TRUST, THE TRUMP)
ORGANIZATION, INC., TRUMP)
ORGANIZATION LLC, DJT HOLDINGS LLC,)
DJT HOLDINGS MANAGING MEMBER,)
TRUMP ENDEAVOR 12 LLC, 401 NORTH)
WABASH VENTURE LLC, TRUMP OLD)
POST OFFICE LLC, 40 WALL STREET LLC,)
and SEVEN SPRINGS LLC,)
)
Petitioners,)
)
For a Judgment Under Article 78 of the CPLR)
)
-against-)
)
THE HONORABLE ARTHUR F. ENGORON,)
J.S.C., PEOPLE OF THE STATE OF NEW)
YORK by LETITIA JAMES, ATTORNEY)
GENERAL OF THE STATE OF NEW YORK,)
)
Respondents.)
-----)

Case No. 4245/27: 7;

AFFIRMATION OF URGENCY

CLIFFORD ROBERT, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the following statements to be true under the penalties of perjury:

1. I am the principal of the law firm of Robert & Robert PLLC, attorneys for Defendants Donald Trump, Jr., Eric Trump, The Donald J. Trump Revocable Trust, DJT Holdings LLC, DJT Holdings Managing Member, Trump Endeavor 12 LLC, 401 North Wabash Venture LLC, Trump Old Post Office LLC, 40 Wall Street LLC, and Seven Springs LLC. I am fully familiar with the facts and circumstances set forth herein based on the files and materials maintained by my firm.

2. This Affirmation of Urgency is submitted in support of the Verified Joint Article 78 Petition brought by Order to Show Cause of Defendants Donald J. Trump, Donald Trump, Jr., Eric Trump, Allen Weisselberg, Jeffrey McConney, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., The Trump Organization, LLC, DJT Holdings LLC, DJT Holdings Managing Member, Trump Endeavor 12 LLC, 401 North Wabash Venture LLC, Trump Old Post Office LLC, 40 Wall Street LLC, and Seven Springs LLC (collectively, “Petitioners”) for an Order: (a) on the first cause of action, annulling and vacating Supreme Court’s summary findings of contempt as in violation of lawful procedure pursuant to CPLR § 7803(3); (b) on the second cause of action, annulling and vacating Supreme Court’s summary findings of contempt as in excess of Supreme Court’s jurisdiction pursuant to CPLR § 7803(2); (c) on the third cause of action, finding that Supreme Court’s gag order entered on the record on October 3, 2023, and so-ordered on October 26, 2023, is in excess of Supreme Court’s jurisdiction under CPLR § 7803(2); (d) on the fourth cause of action, finding that Supreme Court’s gag order entered on November 3, 2023, is in excess of Supreme Court’s jurisdiction under CPLR § 7803(2); and (e) granting such further and additional relief as the court deems just and proper (the “Petition”).

4. This Affirmation of Urgency is also submitted in support of Petitioners’ request for a stay of enforcement of the above-referenced gag orders pursuant to CPLR § 7805 during the pendency of this proceeding.

5. The urgency of this application is evident, given that (1) the gag orders currently preclude Petitioners from posting, emailing, or speaking publicly about any members of Justice Engoron’s staff, in contravention of the First Amendment of the United States Constitution and Article I, Section 8 of the New York Constitution; (2) the gag orders currently preclude Petitioners’ counsel from making any public statements, in or out of court, that refer to any

confidential communications in any form between Justice Engoron and his staff, in contravention of the First Amendment of the United States Constitution, Article I, Section 8 of the New York Constitution, and the absolute privilege attaching to in-court statements by counsel; and (3) Justice Engoron's imposition of summary punishment exceeds his jurisdiction, violates the Judiciary Law and the Rules of this Court, and constitutes an arbitrary and capricious exercise of Justice Engoron's contempt powers. Petitioners' injuries are exacerbated by the ongoing and public nature of the foregoing violations during a bench trial that is estimated to conclude over a month from now.

5. On November 15, 2023, pursuant to 22 N.Y.C.R.R. § 1250.4(b)(2), my partner Mike Farina notified Respondents The Honorable Arthur F. Engoron, J.S.C., and People of the State of New York, by Letitia James, Attorney General of the State of New York, via e-mail, of Petitioners' request for an interim stay. A true and correct copy of his e-mail is annexed hereto as **Exhibit A.**

Dated: Uniondale, New York
November 15, 2023

A handwritten signature in black ink, appearing to read "Clifford Robert", written over a horizontal line.

Clifford . Robert

EXHIBIT A

Michael Farina

From: Michael Farina
Sent: Wednesday, November 15, 2023 9:35 AM
To: aengoron@nycourts.gov; argreenf@nycourts.gov; gajohnst@nycourts.gov; 'Wallace, Kevin'; 'Faherty, Colleen'; ahabba@habbalaw.com; 'Michael Madaio'; 'Christopher Kise'; 'chris kise'; 'msiudzin@nycourts.gov'; Clifford Robert
Subject: Donald J. Trump, et al. v. People of the State of New York, et al.

Dear Justice Engoron and Counsel:

Pursuant to 22 N.Y.C.R.R. § 1250.4(b)(2), please be advised that Petitioners Donald J. Trump; Donald Trump, Jr.; Eric Trump; Allen Weisselberg; Jeffrey McConney; The Donald J. Trump Revocable Trust; The Trump Organization, Inc.; The Trump Organization LLC; DJT Holdings LLC; DJT Holdings Managing Member; Trump Endeavor 12 LLC; 401 North Wabash Venture LLC; Trump Old Post Office LLC; 40 Wall Street LLC; and Seven Springs LLC will be presenting an order to show cause tomorrow, November 16, 2023, at 10:00 a.m. to the First Department seeking a stay of the gag orders.

Respectfully,

Michael Farina | Partner
Robert & Robert PLLC

Long Island Office
[526 RXR Plaza](#)
[Uniondale, New York 11556](#)
Tel: [516-832-7000](#)
Fax: [516-832-7080](#)
Mail and Service of Process Address

Manhattan Office
[One Grand Central Place](#)
[60 East 42nd Street, Suite 4600](#)
[New York, New York 10165](#)
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www.robertlaw.com

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STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

Willie Addison, Being duly sworn, deposes and says that deponent is not party to the action, and is over 18 years of age.

That on 11/16/2023 deponent caused to be served 1 copy(s) of the within

Application for Interim Relief

upon the attorneys at the address below, and by the following method:

By Hand

Kevin Wallace, Esq.
Colleen Faherty, Esq.
People of the State of New York
By: Letitia James
Attorney General of the State of
New York
28 Liberty Street
New York, New York 10005
212-416-6376
Kevin.Wallace@ag.ny.gov
Colleen.Faherty@ag.ny.gov

By Hand

The Honorable Arthur F. Engoron
New York Supreme Court
111 Centre Street
New York, New York 10013
646-386-3600



Sworn to me this

Thursday, November 16, 2023

KEVIN AYALA
Notary Public, State of New York
No. 01AY6207038
Qualified in New York County
Commission Expires 7/13/2025

Case Name: Trump v. Hon. Arthur F. Engoron (2)

Docket/Case No: 2023-05859

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