

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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

Plaintiff,

Index No. 452564/2022

-against-

NOTICE OF ENTRY

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,

Defendants.

-----X

PLEASE TAKE NOTICE that annexed hereto is a true and correct copy of the Decision
and Order of the Honorable Arthur F. Engoron, J.S.C., as set forth on the record on October 27,
2023, so ordered October 30, 2023, and entered in the Office of the Clerk of the Supreme Court,
New York County on October 30, 2023.

Dated: New York, New York
October 30, 2023

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In The Matter Of:
PEOPLE OF THE STATE OF NEW YORK v.
DONALD J. TRUMP, et al.

SHERI DILLON
October 27, 2023

NICOLE C. ROBINSON

So Ordered
(AE) 10/30/2023

HON. ARTHUR F. ENGORON

OCT 30 2023

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1 SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK : CIVIL TERM : PART 37
 2 ----- X
 3 PEOPLE OF THE STATE OF NEW YORK, BY
 LETITIA JAMES, ATTORNEY GENERAL OF
 THE STATE OF NEW YORK,
 4
 Plaintiff,
 5
 Index No.
 6 -against- 452564/2022
 7 DONALD J. TRUMP; DONALD TRUMP, JR.; ERIC TRUMP;
 IVANKA TRUMP; ALLEN WEISSELBERG; JEFFREY MCCONNEY;
 8 THE DONALD J. TRUMP REVOCABLE TRUST; THE TRUMP
 ORGANIZATION, INC.; TRUMP ORGANIZATION, LLC;
 9 DJT HOLDINGS, LLC; DJT HOLDINGS MANAGING MEMBER;
 TRUMP ENDEAVOR 12, LLC; 401 NORTH WABASH VENTURE,
 10 LLC.; TRUMP OLD POST OFFICE, LLC; 40 WALL STREET,
 LLC.; AND SEVEN SPRINGS, LLC,
 11
 Defendants. X
 12 ----- X
 13 Supreme Courthouse
 60 Centre Street
 New York, New York
 October 27, 2023
 14
 B E F O R E:
 15 HONORABLE ARTHUR F. ENGORON,
 Justice, Supreme Court
 16
 17 A P P E A R A N C E S:
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1 THE COURT OFFICER: All rise. Part 37 is now in
 2 session. Honorable Judge Arthur Engoron presiding. Make
 3 sure all cellphones are on silent. Laptops and cellphones
 4 will be permitted, but only to members of the press.
 5 There's absolutely no recording or photography of any kind
 6 allowed in the courtroom. Now, be seated and come to order.
 7 THE COURT: Okay. So why are we here at 9:30
 8 instead of 10:00? Because we're going to hear oral argument
 9 on a motion by Ivanka Trump to quash a subpoena, trial
 10 subpoena issued against her.
 11 I read the papers, so, please, don't be too
 12 repetitive. I'm hoping that we can finish by 10:00. If we
 13 can't, then by 10:30. We want to try to finish with the
 14 current witness, Sheri Dillon, today. And without further
 15 ado, who would like to speak on behalf of the motion?
 16 MR. MOSKOWITZ: Good morning, Your Honor. Bennet
 17 Moskowitz on behalf of non-party witness Ivanka Trump.
 18 First, let me say thank you everyone here, especially Your
 19 Honor, Ms. Greenfield and the parties for giving us the time
 20 for this in the middle of a very busy trial.
 21 I heard you loud and clear. I have no intention to
 22 just rehash what's in my moving papers. As Your Honor
 23 knows, I wasn't afforded a reply opportunity, so I'll take
 24 this opportunity to address things mostly that the AG
 25 raised. What I will say just to level set here and I don't

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 24 NICOLE C. ROBINSON, CSR
 JANELLE LONDON, RMR, CRR
 25 Senior Court Reporters

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1 want to get lost in the shuffle with all the papers flying
 2 back and forth on this. We're not here about technical
 3 service defects. This is about fundamental issues of
 4 jurisdiction.
 5 THE COURT: Good. That makes things a lot simpler.
 6 MR. MOSKOWITZ: Right, and hearing only facts that
 7 matter for purposes of the jurisdiction. Ms. Trump does not
 8 live in New York. She's not domiciled here and despite the
 9 fact that the AG concludes otherwise and doesn't present
 10 evidence supporting that conclusion, she does not transact
 11 business here. Let me say it again, she does not transact
 12 business here. That has a very specific meaning under New
 13 York law.
 14 Weinstein, Korn & Miller, no offense to Professor
 15 Siegal. He's great, too. I picked it up and Section 30809
 16 of Weinstein, Korn & Miller, so that section of Weinstein,
 17 Korn & Miller provides, Your Honor, that actual place of
 18 business under New York law means where that person is
 19 regularly, physically present and regularly transacts
 20 business.
 21 Ivanka Trump does not regularly transact business
 22 and does not regularly at any of the addresses where they
 23 served these subpoenas to these entities at most since 2017
 24 and if they want an affidavit for that business, that's
 25 fine. By the way, side note, they didn't put in an

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<p>1 affidavit because I urge the Court, and you read the papers, 2 if you revisit it, maybe you don't need to, the 3 correspondence attached to my affirmation, the AG's position 4 on this motion has been like a moving target. 5 First they said, "Oh, it is a subpoena to these 6 entities." No, it is a subpoena to her. Now I'm hearing in 7 their papers for the first time that she transacts business 8 at Trump Tower. She does not. Since 2017, she's been there 9 once or twice a year, never for business, to say hello, 10 people including family members for 15 minutes, 30 minutes, 11 things like that. So there is no basis to say a service on 12 an entity at Trump Tower is service on her individually. 13 That's just wrong. 14 Let's look at the case law here and I'll address 15 mostly the case law that was cited by my friends across on 16 the other side. First, they don't deal with the fact that 17 Justice Fried's decision just as an example, Amelius is 18 decisive. A non-party, non-domiciliary is not subject to 19 the subpoena power of the court. That's 64 New York State 20 3d 855 at 866. Again, that was Justice Fried. 21 When we had the ongoing discussions leading up to 22 this motion and still today, perhaps the AG relied on cases 23 like 2323 Communications Corp. Those cases stand for a 24 principle that's very different which is that where an 25 entity is a party, it can be compelled to appear through a</p>		<p>1 months leading up to this. So if that's the best case they 2 can do, I'm happy with it. It doesn't help them. It helps 3 me. 4 There are other cases. The Court doesn't have to 5 take my word for it. A lot of cases have cited that Gibson 6 Dunn case and what they rely upon such as this Napoli vs. 7 Bern which is 2021 Westlaw 5458747 at page three, 2021 case 8 with the line of cases that I found talking about the Gibson 9 Dunn case. They'll hook on to that inducement. This guy 10 had the legal fees sent there, represented that's where he 11 worked, and then he turned around and said ha-ha, fee over 12 legal dispute, can't get me there. 13 Now, there is another new argument and, you know, 14 Your Honor, I always tell younger associates there comes a 15 time in trial where parties go a bridge too far and try not 16 to do it. Here is the AG's bridge way too far. How they 17 assert for the first time and they are getting a little 18 desperate here, respectfully, that Ms. Trump consented to 19 this jurisdiction in this case because she's a party in the 20 special proceedings. 21 They must take us all for fools. I'm looking 22 around. This is not the special proceedings. They didn't 23 issue the subpoenas in the special proceedings. There was 24 no trial in the special proceedings, so that's just false on 25 its face. And in any event, we could cite case law that</p>	
<p>1 specific person. The entities they subpoenaed are not 2 parties, so those cases are not applicable. 3 They also talk about this Gibson Dunn case. Let's 4 take a close look at that case, Your Honor. It is a First 5 Department case, doesn't help them. Maybe they didn't find 6 anything better. In that case, you could tell that -- it's 7 a Gibson Dunn case, is a dispute over legal fees and the 8 person trying to evade service, Your Honor, had the legal 9 fees sent to a specific Madison Avenue address. In the few 10 months leading up to -- 11 THE COURT: Wait. Wait, you don't mean that the 12 legal fee was sent. How the bills were sent. 13 MR. MOSKOWITZ: The bill, excuse me, for the legal 14 fees. Invoice me here kind of thing. Then there is a suit 15 over legal fees. The person trying to say service didn't 16 apply, jurisdiction didn't apply had been to that address 17 for work multiple times leading up to the legal proceedings 18 and leading up to the service. And what the court found 19 there was this guy induced Gibson Dunn to rely on this place 20 where he does go to work sometimes. He can't now turn to 21 the court and say that "I'm actually not really there that 22 much." That's not this case. 23 Ivanka Trump didn't induce anyone to go to Trump 24 Tower. She hasn't been there working since 2017 and she did 25 not go to work there since then, certainly not in the three</p>	Page 2645	<p>1 stands for the proposition, including First Department case 2 law and this is pretty basic, that even consent in one 3 action does not mean that there's jurisdiction over a person 4 who consents even in a related action. Here is not what we 5 are dealing with. They're saying we had this years-long 6 social proceeding. She was subject to jurisdiction in that 7 proceeding. Therefore, in this trial, under separate index 8 number, which we issued subpoenas, she must come today. Not 9 how it works and there's a reason we didn't hear that 10 argument previously. It doesn't fly. 11 So let's talk about the entities. Again, I urge 12 Your Honor to revisit the fact that the AG kind of spoke 13 from both sides of the mouth about what these subpoenas 14 were. It is pretty simple. We all know what happened here. 15 They had easy jurisdiction over Ivanka Trump. They could 16 have served her at her house. Much different. We probably 17 wouldn't be here today. What appears to happen is they task 18 one someone in their office for saying let's go to the 19 transcript let's look at documents let's find some entities 20 that have something to do with her and let's fire off 21 subpoenas. That's what they did. 22 THE COURT: Wait. Wait. Entities that had 23 something to do with her? Didn't she own some of them and 24 didn't some of them own parts of others? 25 MR. MOSKOWITZ: I'll get to that. It is not clear.</p>	Page 2647

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1 The TTT and OPO entity, she absolutely has an affiliation
2 with those entities as do other people who can competently
3 testify for those entities, but let me stop there. Again,
4 as non-parties, you don't get to subpoena those entities and
5 say you must appear via specific person X rather, I'll get
6 to it in a minute, it's black letter law an entity can
7 provide anyone who's competent to testify which goes back to
8 my point.
9 I asked them why TTT? Why this OPO entity? Why
10 502 Park? I never got an answer because what they were very
11 honest about, and I appreciate, is that they want her to
12 appear and there's no limitation in their mind of what they
13 could ask her about because it is really not about these
14 entities. That's just the way that they're trying to get
15 jurisdiction over her. 502 Park, I said to them, "Guys, I'm
16 having trouble here. I can't find anything on my end that
17 shows what she has to do with this entity. What did you
18 have before you served the subpoena." I didn't get an
19 answer. You don't get to -- subpoena powers are awesome --
20 THE COURT: You might get an answer today if there
21 is an answer.
22 MR. MOSKOWITZ: Yeah, I would like to know the
23 answer because I haven't found it. I said, "Please, share
24 it because if there is something "-- I'll note I spent a
25 lot of time. I don't even know that that entity was used

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1 person.
2 MR. MOSKOWITZ: That's exactly right. At the end
3 of the day, Your Honor, they just don't have jurisdiction
4 over her. They tried with this transient business again
5 articulated to me for the first time in their papers that
6 they submitted to Your Honor and I just addressed it. It's
7 just wrong and if they want an affidavit saying what I just
8 represented to the Court as an officer and I'll say it again
9 that she does not transact business at any of those places
10 they served, I will be happy to do it.
11 THE COURT: Did she ever transact business?
12 MR. MOSKOWITZ: Yes.
13 THE COURT: When was the last time she transacted
14 business?
15 MR. MOSKOWITZ: Before 2017.
16 THE COURT: Okay. So what?
17 MR. MOSKOWITZ: You have to have jurisdiction over
18 her now. If someone worked in New York 50 years ago and
19 leaves, you don't get to say, "Hey, you once worked at this
20 address. Come to trial." That's not how it works. It has
21 to be jurisdiction now, transact business here now.
22 THE COURT: How are we going to define now? What
23 if somebody transacts business here, leaves on a vacation or
24 a business trip or is away?
25 MR. MOSKOWITZ: Again --

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1 for anything. It exists, I grant you that. I could
2 speculate at what it might have been. I have no document
3 that says that like the other two that she was an officer or
4 anything like that. She doesn't know what it is and the AG
5 doesn't know what it is.
6 So they weren't served on Ivanka Trump. They were
7 served at best on these entities. And, by the way, not all
8 cleanly, but again, I'm not here about service stands or
9 what. If they insist they need those entities, those
10 entities can appear. I think they should articulate with
11 why they need those entities, but I understand the
12 defendants will speak for themselves. They offered -- for
13 the two that we concern that they offer, they offered for
14 someone who has lived here appear and testify for those
15 entities, which you are allowed to do.
16 New York law again, I pulled out Weinstein, Korn &
17 Miller. You can look at Section 230504, "If a subpoena to
18 testify is served on and is addressed to an entity, that
19 entity may choose the person who will be deposed," period.
20 So they cite --
21 THE COURT: I'm very familiar with that concept
22 that the entity has the right in the first instance to
23 decide who to produce. I think we are in a different
24 situation than the normal one here. As we all recognize, we
25 are not looking for the entities. They're looking for the

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1 THE COURT: A week later, they're not still --
2 MR. MOSKOWITZ: No. The Weinstein, Korn & Miller
3 basic principle addresses that, Your Honor. If it is a
4 place you regularly return to work such as like I work on
5 Third Avenue where my law firm offices are. If I leave for
6 a week and they serve me there, I can't turn around and say,
7 "Oh, I was gone that week." Here, you have someone who
8 didn't work at the place for many, many years. They no
9 longer return there for work.
10 THE COURT: Let me ask you a question. Did Ivanka
11 submit any sworn statement?
12 MR. MOSKOWITZ: On this motion, no, because again,
13 I didn't hear this argument and didn't get a reply for it.
14 I'm happy to submit one now. I would have done it in a
15 reply brief.
16 THE COURT: Now is too late. I'm hoping to decide
17 this today and if she testifies, it will be fairly soon.
18 MR. MOSKOWITZ: I wasn't put on notice that that
19 was their argument because they kept changing it. How could
20 I respond to something they didn't articulate? I can't
21 guess what their position is.
22 THE COURT: Well, it's standard practice in New
23 York law that you need to have an affidavit from someone
24 with personal knowledge if you're going to start spouting
25 facts, but --

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1 MR. MOSKOWITZ: I agree, and they don't have one
 2 either showing the opposite, but I'm happy to put one in
 3 today.
 4 THE COURT: I'm not sure that they can prove a
 5 negative. Ivanka would be the person best able to say when
 6 she ever -- when was the last time she worked in New York
 7 or whether she still works in New York, what she owns here,
 8 et cetera, et cetera, but --
 9 MR. MOSKOWITZ: I could get it to the Court ASAP.
 10 THE COURT: I promise you I'm not a "Ha-ha, I got
 11 you" judge. I'm not trying to say, "Ha-ha, you didn't have
 12 an affidavit from her," but it does weaken your argument
 13 because you keep talking about what she does and doesn't do.
 14 She would know better than you.
 15 MR. MOSKOWITZ: I agree, and if I had been afforded
 16 an opportunity to reply, I would have submitted it. I did
 17 not want to disregard what the Court advised me which was no
 18 reply afforded, which was the e-mail I received.
 19 THE COURT: Whether you should have needed a reply,
 20 waited for a reply, a reply is to respond to their
 21 arguments, but if you don't make out a prima facie case by
 22 an affidavit from Ivanka saying "I don't do these things. I
 23 don't live there," et cetera, I don't think that should have
 24 been in the reply. That should have been in moving papers,
 25 but that's just my opinion. All right, continue.

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1 MR. MOSKOWITZ: Thank you, Your Honor. So going
 2 back to the idea that corporations can designate their own
 3 witnesses, they cite the Standard Fruit case, totally
 4 different. In that case -- by the way, it was from
 5 1977 -- the court did allow a party to subpoena an
 6 out-of-state witness. It was after the witness provided by
 7 the subpoenaed corporation was unable to testify to the
 8 relevant facts. And even then, the court allowed the
 9 corporate entity to select between two different
 10 individuals.
 11 THE COURT: When I said, I read all the papers, I
 12 didn't read all the cases, but that case, I did read.
 13 MR. MOSKOWITZ: Right. Right. So again, that's
 14 our point. The corporation gets to put someone up and it
 15 has to be someone who can speak to the facts, again, which
 16 is why my first question to them when we got notice that
 17 they were trying to serve these subpoenas, "Hey, what
 18 testimony are you going for" and we quoted this and it is in
 19 the exhibits to my affirmation. They were honest about it.
 20 I appreciate that. It was basically limited. It was, "She
 21 knows this, she knows that, but I can't really limit it," so
 22 they want her here. They want it to be unlimited. They
 23 didn't depose her. They could have. They didn't de benne
 24 esse, you know, subpoena her. They could have done that. I
 25 guess they didn't think she'd be out of the case. I'm

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1 sorry. She is and that changes things fundamentally.
 2 You're no longer in the case. You're not a resident. You
 3 don't work here. You don't have jurisdiction over that
 4 person. That's the breaks.
 5 THE COURT: The expression is "that is the breaks."
 6 MR. MOSKOWITZ: I'm referring in the singular
 7 situation, but I appreciate Your Honor's.
 8 THE COURT: All right. Anything else on your
 9 initial -- I don't know whether we will have time for a
 10 reply, but was that it for now?
 11 MR. MOSKOWITZ: Yes, Your Honor. I mean, I
 12 appreciate the possibility if I hear something new, to
 13 address it.
 14 THE COURT: Probably. Probably.
 15 MR. MOSKOWITZ: Yeah.
 16 THE COURT: Okay. It is my understanding that the
 17 defendants themselves do not have standing to contest this,
 18 but I'll let them talk if they want to.
 19 MR. KISE: Thank you, Your Honor. I don't know
 20 that I would say we don't have standing since it affects the
 21 impact of the trial and it affects the course of the trial,
 22 but in all events, I appreciate the opportunity to address.
 23 THE COURT: We always like to hear your mellifluous
 24 voice.
 25 MR. KISE: That's good. At least there's something

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1 positive that may happen here. I will try not to go over as
 2 you suggested, Your Honor. I'm not going to belabor the
 3 papers. I know you've read them and you've seen in our
 4 papers that we view the subpoena truly as just continued
 5 harassment of President Trump's children. They were all
 6 named and included in this case as leverage. There's no
 7 serious evidence that any of them had any involvement in the
 8 Statement of Financial Condition preparation.
 9 Ms. Trump was dismissed from the lawsuit by the
 10 First Department and now despite having a year to depose Ms.
 11 Trump in this case, several months post-dismissal to depose
 12 her, now all of a sudden in the trial, the Attorney General
 13 claims that her testimony is somehow essential. I thought
 14 Mr. Wallace was going to object when he stood up. I'm just
 15 so used to it. No. No.
 16 THE COURT: Obviously, testimony does not have to
 17 be "essential."
 18 MR. KISE: Even if it were relevant then, then they
 19 should have done it during discovery. They're claiming now
 20 that only she can provide this information and if it was so
 21 essential, then why are we here in the middle of trial?
 22 There was no even attempt to do a de benne esse deposition
 23 which was done with other witnesses who may or may not be
 24 available for trial.
 25 The exhibits attached to their motion demonstrate

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<p>1 that this is an inexcusable delay. All of the documents 2 that I saw that were attached as exhibits were all things 3 they had in their possession for at least a year, if not 4 more. The Attorney General certified in their NOI, their 5 note of issue, that all discovery was complete and the 6 service of that prohibits reopening. I'll cite the Court to 7 the Melcher case, 38 AD3d 376. It is a First Department 8 case that stands for that proposition that their 9 certification meant that they've completed their 10 investigative efforts for trial, their discovery efforts for 11 trial and yet, this is tantamount to a discovery subpoena. 12 Nothing was done.</p> <p>13 To us, again, our answer is obvious they want to 14 put Ms. Trump on the stand, create another media event while 15 I'm always certainly happy to have the Attorney General in 16 the courtroom, her presence today demonstrates that that's 17 what this is about. I doubt she came here to hear Ms. 18 Dillon. I doubt she came here to hear Mr. Flores.</p> <p>19 Although, I'm sure the testimony will be riveting. Really 20 the purpose here is to focus on another one of Mr. Trump's 21 children who has been dismissed from the lawsuit.</p> <p>22 To the jurisdictional point that Mr. Moskowitz 23 raised, there's just no legal authority for the Court to 24 require a non-party, non-domiciliary to appear at trial as a 25 representative of a non-party entity. It's non, non, non.</p>	<p>1 information about that entity, about Standard Fruit, about 2 that specific entity. They produced, as was their right, 3 the first witness, the corporate designee to testify about 4 relevant facts. Only after that witness testified and there 5 was a demonstration that that witness could not -- could 6 not testify did the court order another witness.</p> <p>7 The Amelius case, which we also cite 64 NY Supp. 3d 8 855, draws the distinction further bearing out, Standard 9 Fruit draws the distinction between a non-party corporation 10 and a corporation under investigation. Here, you have three 11 non-parties, none of which are under investigation, none of 12 which have any association heretofore with this case.</p> <p>13 So, the subpoenas were not served. They were 14 served all on Ms. Trump. They were served on the non-party 15 entities. Those non-party entities are entitled to 16 designate a corporate representative and the Attorney 17 General has the burden in the first instance to demonstrate 18 that that designation was inadequate. The Barone case, 260 19 AD2d 417 and the other cases we cite stands for that 20 proposition that there must be some demonstration that the 21 initial witness that is designated by the entity is 22 inadequate.</p> <p>23 There's no showing that the individual that's been 24 designated here by the corporate entities, Eric Trump is 25 inadequate. In fact, the Attorney General herself alleged</p>
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<p>1 And the Court itself could not compel her attendance under 2 these circumstances.</p> <p>3 The service issue, I'll just touch on briefly. The 4 service on -- and the cases -- I'm not citing all the 5 papers. They're in their papers, Your Honor. The service 6 on a non-party entity registered agent is not service. It 7 is not service on Ms. Trump in her individual capacity and a 8 non-party, non-domiciliary not subject to the court's 9 subpoena power does not constitute service on Ms. Trump.</p> <p>10 And I'll cite, as in our papers, the Genger case, 11 50 Misc.2d 361. The Attorney General argues that Ms. Trump 12 did not contest jurisdiction in the special proceeding, but 13 that's frankly a complete non sequitur. The Courts case 14 they cite is completely in opposite. That's a judgment 15 debtor who fled the jurisdiction after judgment that then 16 filed a parallel action against the creditor in a New York 17 court.</p> <p>18 There was no dispute that the court could obtain 19 the jurisdiction over the debtor in the very case at issue, 20 but here, you have Ms. Trump is not a party. She was 21 dismissed by the First Department. She's not a judgment 22 debtor and she's not actively litigating any affirmative 23 case in New York.</p> <p>24 The Standard Fruit case that they cite is also in 25 opposite. There, an investigative subpoena sought</p>	<p>1 in the complaint that Eric Trump is responsible for all 2 aspects of management. I mean, that's their allegation. So 3 I don't see how they can claim without any explanation 4 that -- or any proof that Eric Trump is now somehow an 5 inadequate corporate designee, and they're not entitled to 6 raise that issue unless and until they make that -- make 7 that showing and that has been established by the court.</p> <p>8 Finally, and just briefly, the subpoena itself 9 revealing what this is all about is truly overly broad.</p> <p>10 There is no attempt to narrow the issues. They just want 11 another free-for-all on one of President Trump's children. 12 There's no real relevance to the proceeding. It's more in 13 the nature of a subpoena for a deposition where we're going 14 to spend seven hours. "What do you know about this?" "What 15 do you know about that?"</p> <p>16 THE COURT: She was deposed already in a different 17 case related, if you pardon the expression, so it is not 18 like they're not -- it is not like a total shot in the 19 dark.</p> <p>20 MR. KISE: It may not be a total shot in the dark, 21 but the subpoena is pretty close. The lights are on dimly 22 and they're shooting off to the right when there's someone 23 over on the left that's their target. So yeah, maybe it is 24 in the same room, but the lights are dim and they're going 25 in the wrong direction. So there's -- if they had a</p>

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Table with 4 columns: PROCEEDINGS, Page 2660, Page 2662, Page 2661, Page 2663. Contains text from deposition transcripts.

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<p>1 I'll also go back to the idea that she is no longer</p> <p>2 a party and somehow the statute of limitations may play into</p> <p>3 whether or not she has relevant evidence to provide the</p> <p>4 Court and courts at trial.</p> <p>5 I will note that the statute of limitations</p> <p>6 stretches back to 2014. That means that Ms. Trump was an</p> <p>7 executive of the Trump Organization in 2014, 2015 and 2016</p> <p>8 before departing the company in 2017. All of that is</p> <p>9 relevant to the case and within the statute of limitations</p> <p>10 period. She was an executive of defendant entities and she</p> <p>11 undertook transactions on their behalf.</p> <p>12 Whether or not the First Department thought that we</p> <p>13 had established she committed fraud during the period that</p> <p>14 she was subject to the statute of limitations is unrelated</p> <p>15 to whether or not she has relevant knowledge of what was</p> <p>16 happening within the company at that time. And part of the</p> <p>17 reason we need her knowledge and not Eric Trump's is because</p> <p>18 she was the direct contact with Deutsche Bank on the OPO</p> <p>19 loan. She ran that project, not Eric Trump. And I believe</p> <p>20 the case law in our brief establishes that we're not</p> <p>21 required to take a witness who may educate themselves about</p> <p>22 the company's position and then testify.</p> <p>23 I will also add the idea that we should have taken</p> <p>24 her deposition is -- it is a red herring. She has a</p> <p>25 presence in this state. She owns multiple businesses within</p>		<p>1 And this is identified in paragraph 17 and 18 of our</p> <p>2 supporting affidavit. "She returned as a manager to that</p> <p>3 entity after her time in Washington was over."</p> <p>4 So she is a manager of the Trump Organization</p> <p>5 business. I think you combine that with the fact that</p> <p>6 they're offering Eric Trump as a replacement suggests that</p> <p>7 she is very much still intertwined with the Trump</p> <p>8 Organization.</p> <p>9 So we're not just focused on the specifics of the</p> <p>10 mechanics of service. I certainly think that under the</p> <p>11 operative words of this Court she could be brought here by</p> <p>12 the Trump Organization. They certainly seem to have enough</p> <p>13 control of her.</p> <p>14 The only other point that I think I would make is</p> <p>15 she clearly owns and operates businesses. They're still</p> <p>16 affiliated with defendants, they're still relevant to this</p> <p>17 case and are located in New York. If she truly wanted to</p> <p>18 completely absent herself from the company, from the state,</p> <p>19 she was free to do that. She has maintained these</p> <p>20 businesses and these businesses aren't complete strangers to</p> <p>21 this action. Ivanka OPO is the ownership interest she held.</p> <p>22 As late as after the sale of this property she obtained I</p> <p>23 believe at least \$4 million from her interests in the sale</p> <p>24 of the OPO property which explains very much directly at</p> <p>25 issue in this case. She was acting in her own interest when</p>	
<p>1 the state. She owns multiple businesses that have their</p> <p>2 principal place of business within the state.</p> <p>3 And I'll note that Mr. Bennet -- Mr. Moskowitz</p> <p>4 keeps talking about I believe he's a Weinstein & Miller fan.</p> <p>5 THE COURT: Weinstein Koren & Miller is with a "K"</p> <p>6 and not a "C."</p> <p>7 MR. WALLACE: I'm aware of that at least. But he</p> <p>8 also ignores the plain language of the CPLR 3086 which</p> <p>9 states: "For purposes of this section, actual place of</p> <p>10 business shall include any location that the defendant</p> <p>11 through regular solicitation or advertisement has held out</p> <p>12 as its place of business." Ivanka Trump has certainly held</p> <p>13 out the location of Trump Tower and the Trump Organization</p> <p>14 as a place of business for the OPO Ivanka entity, for TTT</p> <p>15 and for the 502 entity.</p> <p>16 I will add that if Mr. Moskowitz needs additional</p> <p>17 information on relationship to the 502 entity that can be</p> <p>18 found in the -- paragraphs 24 through 26 of the supporting</p> <p>19 affidavit that we submitted and the documents attached</p> <p>20 thereto. It is a property that she owns and is renting out</p> <p>21 as a commercial enterprise for TTT.</p> <p>22 I would note that this is part of the case already.</p> <p>23 Ms. Kidder talked about it during week two of the trial. It</p> <p>24 is part of the licensing fees that the company earns.</p> <p>25 I would also note that she returned as a manager.</p>		<p>1 she was negotiating a loan with Deutsche Bank on OPO.</p> <p>2 So, in any event, she very much remains intertwined</p> <p>3 with the Trump Organization. She very much still has a</p> <p>4 presence in New York and we are now obligated to go seek her</p> <p>5 de bene esse deposition because she is still available to</p> <p>6 this Court and through that commercial presence. She is a</p> <p>7 hundred percent someone who can come in and testify and is</p> <p>8 susceptible to subpoena in this jurisdiction.</p> <p>9 So I don't think she is currently unavailable. She</p> <p>10 is a hundred percent available and the subpoenas were</p> <p>11 properly served on business addresses she maintains. Either</p> <p>12 businesses can require her to come forward and testify or</p> <p>13 she is holding out herself as doing business in those</p> <p>14 locations in the services appropriate. The fact that</p> <p>15 they're multiple avenues to secure her testimony in this</p> <p>16 court does not mean that we're doing something untoward or</p> <p>17 hidden or changing our tune. She is still apart of the</p> <p>18 Trump Organization. She still has commercial interests here</p> <p>19 in New York. She operates businesses here. Whether or not</p> <p>20 she visits them once a year just to say hello to the good</p> <p>21 people who are handling her paperwork or she comes more</p> <p>22 regularly is really irrelevant under 308 subsection six.</p> <p>23 But I'm happy to answer any questions Your Honor might have,</p> <p>24 but we really don't see this as being a closed issue. She</p> <p>25 has sufficient contact with New York if the subpoenas were</p>	

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<p>1 appropriate.</p> <p>2 THE COURT: What are your thoughts about granting</p> <p>3 the motion only in part and limiting her testimony to the</p> <p>4 OPO, Old Post Office transaction?</p> <p>5 MR. WALLACE: I don't think -- I'm not sure what</p> <p>6 the basis would be for that. She would have the knowledge</p> <p>7 in her head of what the transactions are. I think it would</p> <p>8 also cover her information on the licensing agreements of</p> <p>9 TTT, her knowledge of the 502 Park apartment. But honestly,</p> <p>10 if it's just the OPO, I do think relevant -- the course of</p> <p>11 conduct with Deutsche Bank is relevant to the OPO loan. I'm</p> <p>12 not sure it presents that much of a restriction to the scope</p> <p>13 of her testimony, but I think it -- the entities we've</p> <p>14 subpoenaed really do cover most of the breadth of what we</p> <p>15 would be interested in hearing -- what we would be</p> <p>16 interested in having her testify about.</p> <p>17 THE COURT: Brief replies?</p> <p>18 MR. MOSKOWITZ: Thank you, Your Honor.</p> <p>19 First, as to the only argument I heard that touches</p> <p>20 on actual jurisdiction, the issue which is what dictates the</p> <p>21 result today is whether there is jurisdiction over my</p> <p>22 client. I heard this argument with this other CPLR section.</p> <p>23 There is no case that says that being affiliated with an</p> <p>24 entity registered to do business in New York means that</p> <p>25 service of a subpoena on that entity means you have</p>		<p>1 MR. MOSKOWITZ: Say owner. I can go with that.</p> <p>2 Someone who lives in Nebraska can own shares in 50 New York</p> <p>3 corporations. The case law is clear, Weinstein Koren &</p> <p>4 Miller with a "K" is clear, Siegel is clear that service of</p> <p>5 a subpoena of process of a complaint, whatever it is on</p> <p>6 those entities is not service on that person and does not</p> <p>7 mean that you necessarily have jurisdiction over that person</p> <p>8 absent something like someone who is also subject to general</p> <p>9 jurisdiction which is not what we're here talking about</p> <p>10 today. Thank you, Your Honor.</p> <p>11 MR. KISE: Just briefly, Your Honor. I think</p> <p>12 Mr. Wallace's points about we have a very good idea what we</p> <p>13 want out of Ms. Trump's testimony, we knew about the OPO</p> <p>14 loan involvement, all the facts that he's reciting they've</p> <p>15 known about since the investigation. Forget about since the</p> <p>16 case started. Since the investigation.</p> <p>17 So the question comes up again why not do this</p> <p>18 during discovery. Why not depose her during discovery? Why</p> <p>19 not depose her after she was dismissed from the case? They</p> <p>20 had plenty of time to do that. Why issue a Note of Issue if</p> <p>21 they had a witness that they still needed an essential</p> <p>22 witness. The rules exist --</p> <p>23 THE COURT: You file a Note of Issue. You don't</p> <p>24 issue a Note of Issue.</p> <p>25 MR. KISE: That actually sounds better.</p>	
<p>1 jurisdiction over that individual. That is just wrong. We</p> <p>2 do cite cases in our brief that go to that point.</p> <p>3 Even when it's a party entity the cases make clear</p> <p>4 it's not the same thing. What I guess I'm hearing now,</p> <p>5 again, a new argument going back to, you know, why I didn't</p> <p>6 put in certain affidavits I was replying to. I'm now</p> <p>7 hearing basically a general jurisdiction argument. There is</p> <p>8 no evidentiary record of asserting general jurisdiction over</p> <p>9 Ms. Trump and now that we're here today and I'm hearing it</p> <p>10 for the first time I go as far as to say that argument's</p> <p>11 been waived.</p> <p>12 I also heard beyond the jurisdictional argument</p> <p>13 that was the briefest part of Mr. Wallace's presentation. I</p> <p>14 heard a lot of, "I want this, we want her for that." I want</p> <p>15 lots of things. My kid wants a unicorn. What I didn't hear</p> <p>16 is why there is jurisdiction over her such that you can get</p> <p>17 those things. There isn't. A lot of these things are not</p> <p>18 in the record. A lot of it was just their say so</p> <p>19 conclusion. She holds herself out as doing business in New</p> <p>20 York? No, she doesn't. Where is that in the record?</p> <p>21 Again, all they have submitted and all that there is in life</p> <p>22 is that she is affiliated with certain entities that are</p> <p>23 registered to do business in New York.</p> <p>24 THE COURT: Well, again, "affiliated?" That's kind</p> <p>25 of a loosey-goosey term.</p>		<p>1 THE COURT: I'm just trying to get you up to speed</p> <p>2 on New York law.</p> <p>3 MR. KISE: By the time we're done here in November</p> <p>4 of 2025, I probably will be. The rules exist for a reason,</p> <p>5 Your Honor, they do. And the case I cited it's just black</p> <p>6 letter law. Once the Attorney General files a Note of</p> <p>7 Issue, that's it. They don't get to reopen discovery.</p> <p>8 Particularly -- it would be one thing if this were some new</p> <p>9 witness that no one knew about before that. Well, this is</p> <p>10 something critical to our case and we didn't know about</p> <p>11 these facts and there is some justification. This is an</p> <p>12 individual that's been associated with the investigative</p> <p>13 process and then this case then dismissed and no attempt to</p> <p>14 do anything despite the fact that as Mr. Wallace said we</p> <p>15 have a very good idea we've known about these specifics,</p> <p>16 we've known about her specific involvement in the OPO</p> <p>17 transaction, etc.. So they haven't provided the Court with</p> <p>18 any explanation for that. The designations that Mr. Wallace</p> <p>19 represent, I'm glad that he acknowledged and I appreciate</p> <p>20 him acknowledging. Of course, we weren't there which is our</p> <p>21 biggest problems with using the examinations under oath, but</p> <p>22 the designations offer little because there were</p> <p>23 designations essentially with most of the transcript. So it</p> <p>24 wasn't really a narrowing in that sense.</p> <p>25 The idea that somehow Ms. Trump is under the</p>	

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<p>1 control of the Trump Organization or any of the defendants, 2 her father, all I can say is anyone that's raised a daughter 3 past the age of 13 knows they are not under your control. 4 She lives in Florida, she has her own family. The 5 jurisdiction must be here and now irrespective of what she 6 did five years ago, ten years ago with the OPO transaction, 7 the jurisdiction must be here and it must be now and it 8 simply doesn't exist. 9 And respectfully, the Court doesn't have the 10 authority to just ignore that impediment. Respectfully, it 11 doesn't have the authority to ignore the Note of Issue. 12 Respectfully, the Court doesn't have the authority to just 13 say well, I don't care if they knew about all this a long 14 time ago, we're going to let this happen in the middle of 15 trial. I think the case law on that is very well 16 established. 17 So -- and, again, they haven't even proffered -- 18 I'm not offering this on behalf of Mr. Moskowitz and his 19 client. They haven't proffered the least intrusive means 20 which would be some deposition taking place where she does 21 live, in Florida. And if it's so narrow and it's so focused 22 her testimony, then perhaps that can accommodate the issues. 23 Again, I'm not volunteering that, but what I'm saying is the 24 Attorney General's offered nothing to this Court but no, she 25 must come in here now. We didn't depose her, we don't have</p>	<p>1 York now. 2 MR. KISE: Again, I don't know other than what's in 3 the record and that would -- any ownership of any nonparty 4 entity or party entity would not necessarily give the Court 5 jurisdiction. 6 THE COURT: I acknowledge that. 7 MR. KISE: Because JP Morgan is headquartered here 8 and I think it's somewhere in my 401(k) -- I have ownership 9 interest in a New York entity. 10 THE COURT: You have to be careful what you do up 11 here. 12 MR. KISE: Yes, right. 13 THE COURT: Defendants, what, if anything, in the 14 record shows current ownership interest by Ivanka in New 15 York? 16 MR. WALLACE: I believe that's almost everything 17 that's laid out in our affirmation in support. She owns the 18 OPO entity, which has its principal place of business at 19 Trump Tower; she owns the 502 entity; she owns an interest 20 in TTT Consulting. We -- she is also one of the managers. 21 She owns two apartments at the Trump Park Avenue property. 22 I believe that's primarily the scope of what we laid out in 23 our affirmation. 24 THE COURT: And was the affirmation -- were the 25 affirmations by someone with personal knowledge?</p>
<p>1 jurisdiction over her, we're sending subpoenas to these 2 nonparty entities, but she must show up now. Only one 3 reason: They want her in the courtroom so that it will be 4 filled again with media and we can have another circus day. 5 So for those reasons and the ones stated, the subpoena 6 should be quashed, Your Honor. 7 THE COURT: Okay. Give me a moment. 8 (Whereupon, there is a pause in the proceedings.) 9 THE COURT: Let me turn on the microphone first. 10 Defendants, I'm not saying that this is sufficient. In 11 fact, it's not sufficient, but what properties does she 12 currently own in New York or what economic interests does 13 she currently have in New York? If you don't know, you 14 don't know. That's okay. 15 MR. MOSKOWITZ: I don't know, Your Honor. 16 THE COURT: Okay. 17 MR. MOSKOWITZ: And I'll point out that if it were 18 clearly in the submissions, which it's not, I would have 19 addressed it and I don't -- 20 MR. KISE: I don't know either, Your Honor. I just 21 know there is nothing in the record that shows that she does 22 other than ownership and entities that are nonparties. 23 Again, as Mr. Moskowitz -- 24 THE COURT: I didn't ask whether they were parties 25 or not. I asked whether she has ownership interest in New</p>	<p>1 MR. WALLACE: It was made by someone with personal 2 knowledge of our files and it attaches the documents that 3 are the support, so it shows the agreements relevant to the 4 OPO entity, to the TTT entity and to 502. So it lays out 5 documentary evidence that supports our assertions on those 6 fronts. 7 THE COURT: Any last words by defendants? And then 8 I'll retreat for properly ten or 12 minutes and come back 9 with a decision. 10 MR. MOSKOWITZ: Thank you, Your Honor. I can 11 answer Your Honor's question. No, it was not someone with 12 personal knowledge. It was a member of counsel for the 13 Attorney General who attached stale documents. None of them 14 show, answer the question that I can't answer either, which 15 is what does she currently own. 16 By the way, that's all stuff that usually gets 17 addressed at a Traverse hearing, which again, they didn't 18 ask for. We're not submitting to, but that's all about 19 general jurisdiction which they never even argued until now. 20 THE COURT: I once read all the way through 21 "Prince, Richardson & Farrow On Evidence." One of the 22 things I really appreciated learning is there is a 23 presumption in the law that facts stay the same, that they 24 don't change unless there is some reason to think they 25 change. So I don't think the -- well, we don't know what</p>

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<p>1 she owns today. Because she owns something six months ago, 2 I don't think that -- 3 MR. MOSKOWITZ: I was just going to say someone can 4 show you a piece of paper that says I go to NYU. 5 Unfortunately, for me, those days are long gone and my point 6 is that as to the question of what gives jurisdiction over 7 her now, there is nothing in this affidavit from someone who 8 in any event doesn't have personal knowledge of that 9 question. 10 THE COURT: You said you went to NYU? 11 MR. MOSKOWITZ: Yes, Your Honor. 12 THE COURT: Which division, which school? 13 MR. MOSKOWITZ: College of Arts and Science. 14 THE COURT: Okay. The law school, '79. 15 MR. MOSKOWITZ: I'm aware of because my colleague 16 went to school with you. 17 THE COURT: Anyway, interesting. 18 MR. MOSKOWITZ: Your Honor, I could submit an 19 affidavit, though, again, if the Court has questions I would 20 like to point out, though, they flip the burden. 21 My life as a litigator would be very easy if I 22 could fire off subpoenas without the basis to do so which 23 last I checked I have to have the basis when I serve a 24 subpoena and then say to the person tell me why it shouldn't 25 be this subpoena which is what they're doing here, but</p>		<p>1 Also, and this phrase is engrained in all lawyers, 2 "Ms. Trump has clearly availed herself of the privilege of 3 doing business in New York." 4 Finally, plaintiff's papers make abundantly clear 5 by documentary evidence that Ms. Trump owns property in New 6 York and has done business in New York. Even Ms. Trump's 7 own papers admit that she is occasionally here. 8 With all due respect to Mr. Moskowitz, the record 9 is devoid of any evidence because we do not have a sworn 10 statement from Ms. Trump that she does not do currently or 11 has not recently done business here. The time to submit any 12 such affidavit in the first place was in the moving papers. 13 Movant made the argument. There is no jurisdiction over her 14 and it was her burden to provide an affidavit of someone 15 with personal knowledge, meaning herself, to substantiate 16 that. It is black letter law that you may not use a reply 17 to state facts that should have been in your moving papers. 18 Basically we don't know what she does or doesn't do because 19 only she could tell us that and it's too late to tell us 20 that now. That was -- that should have been, could only 21 have been in the moving papers. That's what you do in the 22 motion to quash a subpoena and I've seen that all the time. 23 I get affidavits from people in California or 24 Nebraska saying I don't own property here, I don't come 25 here, I don't do business here. We don't have that.</p>	
<p>1 again, I could submit an affidavit and do it very quickly. 2 THE COURT: All right. Let's take a break until 3 10:35. I suspect to come back with a decision. 4 (Whereupon, there is a recess in the proceedings.) 5 THE COURT OFFICER: All rise. Part 37 is back in 6 session. Be seated and come to order. 7 THE COURT: Let me start with two basic ancient 8 principals for which no citation is necessary. 9 A trial is a search for the truth and the law is 10 entitled to every person's evidence. On the other hand, we 11 don't compel people to testify unless the Court has personal 12 jurisdiction over them. As we learned in law school in the 13 international shoe case, personal jurisdiction to satisfy 14 due process has two elements: Notice and power. 15 Here, the power of the Court to compel Ms. Trump 16 into court to testify. In this case, notice is clear which 17 is why we are here and in any event I think was essentially 18 conceded by her attorney. 19 I find that the power element is also clearly 20 satisfied here. "The due process element is satisfied where 21 the non-domiciliary has minimum contacts with New York State 22 and based upon those contacts the non-domiciliary could or 23 should have reasonably anticipated being hailed into court," 24 and that's more or less an exact quote or paraphrase from 25 LaMarca, 95 NY2d 216.</p>		<p>1 So the motion is denied, but her testimony shall 2 not be scheduled before Wednesday, November 1st for 3 Ms. Trump to appeal this decision if she deems herself so 4 advised. 5 Now, let's go on to the trial. First witness, next 6 witness or same witness? 7 Sure, Mr. Moskowitz, you want to say something 8 first? 9 MR. MOSKOWITZ: I just want to request a so 10 ordering of the transcript unless the written decision is 11 forthcoming. 12 THE COURT: Unlike what I sometimes do there won't 13 be a follow-up written decision. The decision will be a so 14 order of the transcript and I'll make sure it gets so 15 ordered today. 16 MR. MOSKOWITZ: Thank you, Your Honor. 17 MR. KISE: Not to volunteer, would the Court 18 entertain -- I mean, we just did one on Monday, a de bene 19 esse deposition? We just did one on Monday. That way 20 Ms. Trump doesn't have to leave her family and three 21 children to come to New York. 22 THE COURT: No. Denied. I want to see her in 23 person. That's how we prefer testimony. 24 I'll get the signed transcript from which you can 25 appeal by Monday morning. It's just tough, but you know</p>	

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<p>1 what it will say.</p> <p>2 MR. WALLACE: Your Honor, before the witness begins</p> <p>3 her testimony, we did have one housekeeping matter</p> <p>4 concerning today. I believe Mr. Solomon has maybe an hour</p> <p>5 and a half -- at least an hour and a half of questioning. I</p> <p>6 believe the defendants are going to cross and the question</p> <p>7 is should we bring the next witness, Mr. Flores, back to the</p> <p>8 courthouse or do defendants expect this will take us through</p> <p>9 the remainder of today?</p> <p>10 MR. KISE: I don't know if we're going to cross</p> <p>11 this witness at this time. We may call her in our case, but</p> <p>12 to preserve time we're not going to take up the Court's time</p> <p>13 today necessarily. We reserve the right as we have with</p> <p>14 other witnesses, but I'm not sure that's going to become</p> <p>15 necessary. So I don't want to unnecessarily delay the</p> <p>16 proceedings.</p> <p>17 THE COURT: So that will save time for today.</p> <p>18 Will there be enough time to finish the current</p> <p>19 witness and have Flores testify?</p> <p>20 MR. KISE: If we go like yesterday --</p> <p>21 MR. SOLOMON: Your Honor, my questions -- I should</p> <p>22 be able to finish. With respect to objections and how long</p> <p>23 they take, I can't speak to that. I will do everything in</p> <p>24 my power to finish this witness today, if at all possible,</p> <p>25 yes.</p>		<p>1 A Yes.</p> <p>2 Q Okay. Please turn back to page six.</p> <p>3 I'd like to focus your attention on the "Subject of the</p> <p>4 Assignment and Relevant Characteristics."</p> <p>5 THE COURT: Let me just suggest to the witness she</p> <p>6 has -- you have three different ways to see this: the paper</p> <p>7 copy, the screen in front of you and the screen there. I</p> <p>8 often find the screens are a lot simpler. You don't have to</p> <p>9 turn pages, they turn the pages for you, but whatever you</p> <p>10 want to do is okay. Some people like physical papers in</p> <p>11 their hands.</p> <p>12 THE WITNESS: Thank you.</p> <p>13 Q Ma'am, if you look at this paragraph, did you</p> <p>14 understand you or your firm were retaining Cushman & Wakefield</p> <p>15 to "perform an appraisal on the hypothetical 71-unit development</p> <p>16 site located at Briarcliff Manor?"</p> <p>17 A Yes, I did.</p> <p>18 Q Okay. And was that appraisal to be done in connection</p> <p>19 with a potential donation of a conservation easement?</p> <p>20 A Yes, it was.</p> <p>21 Q Thank you.</p> <p>22 A And to be clear, the purpose of this was to document</p> <p>23 the value of the conservation easement. In connection with that</p> <p>24 as apart of that assignment it was to appraise the hypothetical</p> <p>25 71-unit the residential development.</p>	
<p>Proceedings</p> <p>Page 2681</p> <p>1 THE COURT: The question is will we be able to get</p> <p>2 to Mr. Flores today at all? Let's make it easy on</p> <p>3 everybody.</p> <p>4 MR. KISE: I think it would be optimistic.</p> <p>5 THE COURT: All right, so we'll have Flores testify</p> <p>6 starting next week, okay.</p> <p>7 MR. WALLACE: Understood, Your Honor.</p> <p>8 MS. FAHERTY: Thank you, Your Honor.</p> <p>9 THE COURT: I like to make life easy on everybody.</p> <p>10 I'll remind the witness as I always do that she is</p> <p>11 still under oath.</p> <p>12 And let's get right into it, Mr. Solomon.</p> <p>13 MR. SOLOMON: Thank you, Your Honor.</p> <p>14 CONTINUED DIRECT EXAMINATION</p> <p>15 BY MR. SOLOMON:</p> <p>16 Q Ma'am, I'd like to ask the court officer for PX 158 in</p> <p>17 front of you. This document is already in evidence.</p> <p>18 If turn to page six of 13 you'll see that it's</p> <p>19 addressed to you from Cushman & Wakefield, David McArdle's</p> <p>20 letterhead. Do you see that?</p> <p>21 A Yes.</p> <p>22 Q Okay. And if you turn to page 11 of 13, is that your</p> <p>23 signature?</p> <p>24 A Yes.</p> <p>25 Q And did you sign it on or about February 19, 2014?</p>		<p>Proceedings</p> <p>Page 2683</p> <p>1 Q The development didn't exist at the time of the</p> <p>2 appraisal; correct?</p> <p>3 A No, no, no. It was a hypothetical.</p> <p>4 Q When you say "no" let's clarify this.</p> <p>5 Did the 71-unit development exist at the time of the</p> <p>6 appraisal?</p> <p>7 A There was no building.</p> <p>8 Q And, in fact --</p> <p>9 A Or two buildings.</p> <p>10 Q And, in fact, to your knowledge, it's never been built;</p> <p>11 right?</p> <p>12 A To my knowledge, it's never been built.</p> <p>13 Q Okay.</p> <p>14 MR. SOLOMON: Can I please have 3194? May I ask</p> <p>15 the court officer to put 3194 in front of the witness which</p> <p>16 was already in evidence.</p> <p>17 A I'm sorry, could I clarify one more thing?</p> <p>18 THE COURT: Yes.</p> <p>19 A I guess it wasn't -- while there was a general scope of</p> <p>20 -- I think you need to look more at the general scope of work to</p> <p>21 understand the work that was being done. And, again, this was</p> <p>22 all about documenting the value of a conservation easement and</p> <p>23 not just the 71-unit hypothetical buildings, you know, units</p> <p>24 needed to be appraised, but it was also the golf course and</p> <p>25 other properties. So it was a little bit shorthand or</p>	

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DONALD J. TRUMP, et al.

SHERI DILLON
October 27, 2023

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<p>1 abbreviation just to say is that the 71-unit. That was part of 2 the whole project. 3 Q I appreciate that. 4 A That's why I wanted to take a look at the letter 5 because that didn't sound right to me, but I wanted to get that 6 right. 7 Q Sure. I appreciate that. 8 The appraisal needs to determine whether the 9 surrounding parcels or contiguous parcels that may be owned by 10 the same party are enhanced in some way by the conservation 11 easement. I think you mentioned that yesterday; right? 12 A That's apart of it, but again, the whole point is to 13 get to the differentials. What is the value of the conservation 14 easement, the rights and restrictions, the economic value of 15 those things that were being given away. 16 Q But in that process one of the steps is valuing the 17 hypothetical 71-unit residential development; right? 18 A That is apart of the assignment but it's not the entire 19 assignment. There was more to the assignment than that. 20 Q If you take a look at PX 3194. The cover is an e-mail 21 to you from Mr. McArdle dated April 25, 2014. Do you see that? 22 A I don't have that yet, but -- 23 MR. SOLOMON: PX 3194. 24 A Yes. It is an e-mail to me from Mr. McArdle. 25 Q And did you receive it in or about April of -- April --</p>		<p>1 "The development site is entitled to allow the 2 construction of 71 luxury housing units contained within two 3 adjacent low rise structure." Do you see that? 4 A Yes, I do. 5 Transcript continues on the following page.... 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Proceedings</p> <p>1 on or about April 25, 2014? 2 A I have no recollection of that, but I assume that I did 3 since it's an e-mail addressed to me and I have no reason to 4 believe I did not. 5 MR. SOLOMON: We offer it in evidence. 6 THE COURT: Granted. It's in evidence. 7 MR. ROBERT: Statute of limitations. 8 THE COURT: Overruled. Understood. 9 (Whereupon, the item previously referred to is 10 received and marked Plaintiff's Exhibit Number 3194 in 11 evidence.) 12 Q If you turn to page six of 193, please, under "General 13 Description." Do you see that? 14 MR. ROBERT: Excuse me, I haven't been provided 15 with a hard copy. Is it just the e-mail or is there an 16 attachment seeking to move it into evidence? 17 MR. SOLOMON: It's already in. 18 MR. ROBERT: I thought you moved it into evidence. 19 That's why you asked to move it. You said "we offer it into 20 evidence." 21 MR. SOLOMON: I'm sorry. It was already in 22 evidence. 23 MR. ROBERT: Got it. Thank you. 24 Q If you could turn to page six of 193. I'd like to 25 focus you on the general description, second sentence:</p>	Page 2685	<p>S. DILLON - PLAINTIFF - DIRECT(MR. SOLOMON) Page 2687</p> <p>1 Q So in connection with this project, did the appraisers 2 determine in trying to calculate the value of the conservation 3 easement the value of the right to build 71 luxury housing 4 units? 5 A My understanding, that was part of the assignment, yes. 6 Q Please turn to page 4 of 193. The chart in the middle 7 of the page, "Final Value Reconciliation." And do you see, 8 "Final Value Conclusion of Conservation Easement \$43,300,000?" 9 Do you see that? 10 A I see that. 11 Q Did you share this information, the value of the 12 conservation easement, with your client as reflected in this 13 appraisal? 14 A Yeah, I believe, I can. Although, this easement was 15 never completed, I'm not entirely sure. 16 Q Would it have been your practice whether the easement 17 was actually completed and donated or not to share the valuation 18 in the appraisal with your client? 19 A It would have been my practice as the project was going 20 along to share values along the way with my client. Do I have a 21 specific recollection of this? No. 22 Q I understand, but you said it was your practice and I 23 appreciate that. 24 MR. SOLOMON: PX 132, please. It's already in 25 evidence.</p>