

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

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

Plaintiff,

vs.

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.

Index No. 452564/2022  
Engoron, J.S.C.

**AFFIRMATION OF  
CLIFFORD S. ROBERT IN  
SUPPORT OF DEFENDANTS'  
MOTION FOR RECUSAL**

**CLIFFORD S. 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. and Eric Trump. 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 is submitted on behalf of Defendants President Donald J. Trump (“President Trump”), Donald Trump, Jr., Eric Trump, Jeffrey McConney, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Trump Organization LLC, DJT Holdings LLC, DJT Holdings Managing Member LLC, Trump Endeavor 12 LLC, 401 North Wabash Venture

LLC, Trump Old Post Office LLC, 40 Wall Street LLC, and Seven Springs LLC (collectively, “Defendants”) in support of Defendants’ motion requesting that this Court recuse itself from the above-captioned proceeding, or, in the alternative, schedule an evidentiary hearing before another Justice of this Court.

3. On September 27, 2023, this Court issued a decision, *inter alia*, granting summary judgment to Plaintiff People of the State of New York by Letitia James, Attorney General of the State of New York (the “Attorney General”) on the first cause of action in her complaint, wherein she claimed that Defendants engaged in “repeated and persistent fraud” in violation of Executive Law § 63(12). NYSCEF Doc. No. 1532. This Court further directed the cancellation of the entity Defendants’ General Business Law § 130 business certificates and dissolution of all cancelled entities. Id.

4. On November 15, 2023, Defendants moved for a mistrial on the grounds that, *inter alia*, this Court was improperly influenced by its principal law clerk’s public partisan activities. See NYSCEF Doc. Nos. 1633-1637. This Court declined to sign Defendants’ order to show cause and annexed a four-page advisory opinion justifying its conduct. See NYSCEF Doc. No. 1640.

5. On February 16, 2024, this Court issued a decision and order after a three-month non-jury trial, which (1) found Defendants liable on the second through seventh causes of action, (2) awarded the Attorney General \$464 million in disgorgement, and (3) imposed extensive and punitive injunctive relief against Defendants, including industry bans and bars on procurement of loans in the state (the “Judgment”). See NYSCEF Doc. No. 1688.

6. Several months later, on May 8, 2024, NBC New York published an article reporting that Adam Leitman Bailey, Esq. (“Mr. Bailey”) had an improper communication with

this Court outside the presence of the parties or their attorneys, in derogation of the New York Code of Judicial Conduct (the “Code”), after the close of trial and before the issuance of the decision and final Judgment. A copy of that article is annexed hereto as **Exhibit A**.

7. The NBC New York article recites allegations made by Mr. Bailey, a New York real-estate attorney who says he is “no fan of” President Trump. See Exhibit A. Mr. Bailey alleged, in an on-camera interview with NBC New York, that, in the weeks leading up to the issuance of the Judgment, he approached this Court in a public area of the courthouse and engaged this Court in a discussion about the merits of this proceeding. Id. Specifically, Mr. Bailey reports that he explained the application of Executive Law § 63(12), advised this Court on analogous case law, and expressed opinions about the potential economic repercussions of this Court’s rulings. Mr. Bailey stated that he did so because he “really want[ed] [this Court] to get [the Judgment] right.” Id.

8. Mr. Bailey is the founder of the law firm Adam Leitman Bailey, P.C. and reportedly claims to have sued President Trump no fewer than seven times. Copies of selected news articles about this case that quote Mr. Bailey or refer to his litigious past with President Trump are annexed hereto as **Exhibit B**.

10. Since the initial publication of the NBC New York article, it has been widely reported that the New York State Commission on Judicial Conduct (the “Commission”) has launched an investigation into this Court’s conduct. Robert Tembeckjian, the Commission’s Administrator and Counsel, has declined to comment on the pending investigation, stating that the Commission is constrained by a strict confidentiality statute. See Exhibit A. Copies of news articles about the communication and pending investigation are annexed hereto as **Exhibit C**.

12. Nearly a dozen news outlets have reported on both the alleged *ex parte* communication and the Commission's pending investigation. Id.

13. As set forth in Defendants' memorandum of law, the Court retains jurisdiction over this case. The Judgment, which is accruing approximately \$114,553.04 in interest per day, ordered that Hon. Barbara Jones (the "Monitor") remain engaged in a continued and enhanced monitorship over Defendants' financial and accounting practices and disclosures for a period of no less than three years. NYSCEF Doc. Nos. 1688, 1699. The monitorship is at Defendants' sole expense and subject to this Court's ongoing oversight. NYSCEF Doc. Nos. 1688, 1706. As set forth in the March 21, 2024, monitorship order, the Monitor is obligated to report any violations of the order or other misconduct to the Court immediately and, in any event, to submit quarterly reports. NYSCEF Doc. No. 1706. The Court has expressly reserved authority to modify the monitorship order in the event of a violation, "including as to the scope and length of the monitorship, and order such relief as the Court deems just and proper." Id. The order also permits the Attorney General to seek further relief from this Court, a right she has already attempted to avail herself of. Id., see also NYSCEF Doc. No. 1709.

14. The order also specifically contemplates the Monitor's submission of an assessment of the Trump Organization's internal controls and recommendations for additional controls within 90 days, *i.e.*, June 19, 2024, whereafter the Court "may enter an order requiring the Trump Organization to implement all or certain of the Monitor's recommendations." Id.

15. Thus, this Court remains empowered to issue directives and further orders enforcing, supplementing, and/or enhancing the monitorship. The Court's continued oversight and jurisdiction over the monitorship specifically, and the proceeding more generally, underscores the necessity of this application. Id.

16. Further, concerns as to the Court's partiality have irreparably tainted this proceeding and undermined both Defendants' constitutional guarantee of a fair and impartial tribunal and the independence and integrity of the judicial branch. The allegations described in this application have been amplified by numerous national and international news outlets, and the Commission has apparently deemed them worthy of investigation. See Exhibits A, C. Thus, the allegations raise doubts about the integrity of this proceeding that are exacerbated by this Court's retention of jurisdiction over the enforcement of the remedies it imposed.

17. If this motion cannot be decided on the papers, the parties must be given an opportunity to examine all pertinent evidence. To ensure that the parties and this Court possess all information relevant to the disposition of this motion, Defendants intend to issue a subpoena to Mr. Bailey. The subpoena seeks production of, *inter alia*, all communications between this Court and Mr. Bailey to the Courthouse at 60 Centre Street, New York, NY 10007. A copy of that subpoena is annexed hereto as **Exhibit D**.

18. If this Court refuses to grant Defendants' request for recusal on the papers, Defendants request that the Court transfer the application to another Justice of this Court to schedule an evidentiary hearing on the veracity of Mr. Bailey's allegations and the scope of this Court's *ex parte* communications with Mr. Bailey. As this Court's alleged conduct is at the heart of this application, such transfer is necessary and appropriate.

19. No prior application has been made for the relief sought herein.

Dated: Uniondale, New York  
June 20, 2024



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CLIFFORD S. ROBERT

**CERTIFICATION**

Pursuant to Rule 202.8-b of the Uniform Civil Rules for the Supreme Court & the County Court, I certify that, excluding the caption, table of contents, table of authorities, signature block, and this certification, the foregoing Affirmation contains 1,296 words. The foregoing word counts were calculated using Microsoft® Word®.

Dated: Uniondale, New York  
June 20, 2024



CLIFFORD S. ROBERT