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November 13, 2020

VIA ELECTRONIC FILING

Molly C. Dwyer
Clerk of the Court
U.S. Court of Appeals for the Ninth Circuit
The James R. Browning Courthouse
95 Seventh Street
San Francisco, CA 94103

Re: Response to Defendants' November 11, 2020 Rule 28(j) Letter
In re Trump, No. 20-70365 (Clifton, Callahan, Friedland, JJ.)
In re Trump, No. 20-72793 (Clifton, Callahan, Friedland, JJ.)

Dear Ms. Dwyer:

The District Court's November 11th Order provides further proof that Defendants have sought to entangle this Court improperly in discovery disputes that the District Court is already actively managing and resolving.

First, with respect to the four depositions at issue, this Court should deny the pending motion to stay as moot and the third mandamus petition as premature. The relief sought in the motion filed with this Court has now been mooted by the District Court, and the relief sought in the petition may never be necessary depending on how future events unfold. Contrary to Defendants' assertion, the District Court—not Plaintiffs—holds the keys to whether the depositions may go forward and under what circumstances. At a minimum, the record will continue to evolve in the meantime, making the extraordinary exercise of mandamus relief at this point all the more improper.

KIRKLAND & ELLIS LLP

Molly C. Dwyer
November 13, 2020
Page 2

Second, setting aside the four depositions at issue, the District Court correctly rejected Defendants' request to immediately terminate all ongoing discovery. Based on an out-of-context quotation, Defendants accuse the District Court of treating this action as a run-of-the-mill civil case, when in fact the District Court simply observed that any claim of burden based merely on the *volume* of discovery exchanged is meritless when compared to discovery in other cases. Meanwhile, Defendants have no substantive response to the District Court's explanation of why the ongoing discovery is essential to resolving the litigation; has been undermined by Defendants' over-assertion of privilege; and has included the fail-safe measure of *in camera* review. The District Court's Order confirms that it has faithfully followed this Court's prior appellate guidance.

Respectfully submitted,

/s/ Stephen R. Patton

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KIRKLAND & ELLIS LLP

Molly C. Dwyer
November 13, 2020
Page 3

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of November, 2020, the attached letter was filed electronically through the Court's CM/ECF system, and was provided by electronic mail to all counsel of record.

/s/ Stephen R. Patton

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