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September 28, 2022

VIA EMAIL

The Honorable Sarah L. Cave
United States District Court for the Southern District of New York
500 Pearl St.
New York, NY 10007

Re: McKoy, et al. v. The Trump Corporation, et al., 18-cv-9936 (LGS)

Dear Judge Cave:

We write pursuant to Rule I.C. of your Honor's Individual Rules on behalf of Plaintiffs in connection with a time-sensitive change to our travel and deposition plans due to the developing situation around Hurricane Ian's landfall in Florida. In short, we are currently scheduled to travel to Florida early tomorrow morning to take the deposition of Defendant Donald J. Trump at Mar-a-Lago this Friday. We do not believe that is prudent or safe, and we have been unable to obtain Defendants' agreement to reschedule (or relocate) the deposition. Among other things, and as more fully set forth below, the Governor has declared a state of emergency and warned of power outages statewide, the county of Palm Beach has issued a tornado warning and closed schools tomorrow, the local federal court in Palm Beach has similarly closed both tomorrow and Friday, the Sheriff in Palm Beach has asked the public to stay off the roads, our airline and travel agents indicated that we should expect flight cancellations and heavy delays, and our court reporting service has informed us that they cannot guarantee attendance and would prefer to reschedule. Accordingly, we write to respectfully request an order directing Defendants to reschedule the deposition.

As the Court knows, already the parties have agreed—and the Court has permitted the parties—to take two depositions beyond the close of fact discovery this Friday, September 30. *See* ECF 469. Should we be granted similar allowance with respect to Mr. Trump's deposition, we will make every effort to accommodate Mr. Trump's schedule and to proceed on a date and at a location of his choosing.¹

¹ For the avoidance of any doubt, we are fully prepared to proceed with the deposition and have participated in the appropriate security clearance process with the U.S. Secret Service. This request is based solely on the undue risks presented by travel to Florida in the midst of Hurricane Ian.

By way of brief background, Mr. Trump's deposition is currently scheduled for September 30, the last day of fact discovery. At Mr. Trump's insistence, and over Plaintiffs' repeated requests and suggestions otherwise, the deposition is scheduled to take place at Mar-a-Lago. For the past several days, as we have monitored the developing situation around Hurricane Ian, we have raised with defense counsel the possibility of relocating the deposition. For example, on Sunday, September 25, I sent an email to Mr. Robert, lead counsel for Mr. Trump, expressing our desire to keep the date, but raising concerns about last-minute cancellations and the potential inability of the court reporter and videographer to get safely to the deposition location, and suggesting that we move the deposition to Bedminster, New Jersey. I received no response. Instead, Mr. Robert called me yesterday, September 27, to tell me that he and his colleague were boarding a flight to Palm Beach. I expressed some surprise—I believe I used the word “walloped”—but Mr. Robert indicated they were flying down anyway. We reached out to Mr. Robert and his colleague again this afternoon, both by phone and by email, but were not able to get in touch with them. Accordingly, the last we heard is that Defendants insist the deposition go forward at Mar-a-Lago and on Friday. With all respect, we do not believe that is prudent or safe.

As noted, Governor DeSantis has declared a state of emergency for the entire state of Florida.² President Biden has done likewise.³ Governor DeSantis also has warned of likely power outages throughout the State in the coming days.⁴ In Palm Beach County specifically, schools have been closed for tomorrow,⁵ and a tornado watch is in place.⁶ The federal court in West Palm Beach has closed tomorrow and Friday.⁷ And the Sheriff in Palm Beach made a public statement earlier today asking the public to “[p]lease avoid the roads if possible.”⁸ More than half the flights into and out of Palm Beach airport today have been cancelled, and our airline sent us an advisory this afternoon indicating that we should expect cancellations and/or significant delays tomorrow.⁹ Our travel agent likewise said that last-minute cancellations seem likely under the circumstances—and that even if we can get to Florida, we may not be able to get back (to say nothing of traveling safely within Florida).

We also spoke this afternoon with our court reporting service, and our client representative said that they would prefer to reschedule. That representative indicated that both our videographer and court reporter would need to travel by car for up to thirty minutes to the deposition location, which could be unsafe, and that they have concerns about power outages that could make the deposition impossible.

² <https://www.flgov.com/wp-content/uploads/2022/09/EO-22-219-TS-Ian.pdf>

³ <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/09/24/president-joseph-r-biden-jr-approves-florida-emergency-declaration-4/>

⁴ <https://www.pbs.org/newshour/nation/watch-florida-gov-ron-desantis-warns-of-mass-power-outages-as-hurricane-ian-approaches-landfall>

⁵ https://www.palmbeachschools.org/storm_page (last accessed September 28, 2022 at 3:20 p.m.)

⁶ https://forecast.weather.gov/showsigwx.php?warnzone=FLZ068&warncounty=FLC099&firewxzone=FLZ068&local_place1=West%20Palm%20Beach%20FL&product1=Tornado+Watch&lat=26.7477&lon=-80.1262#.YzSeR3bMI2w

⁷ <https://www.flsd.uscourts.gov/>

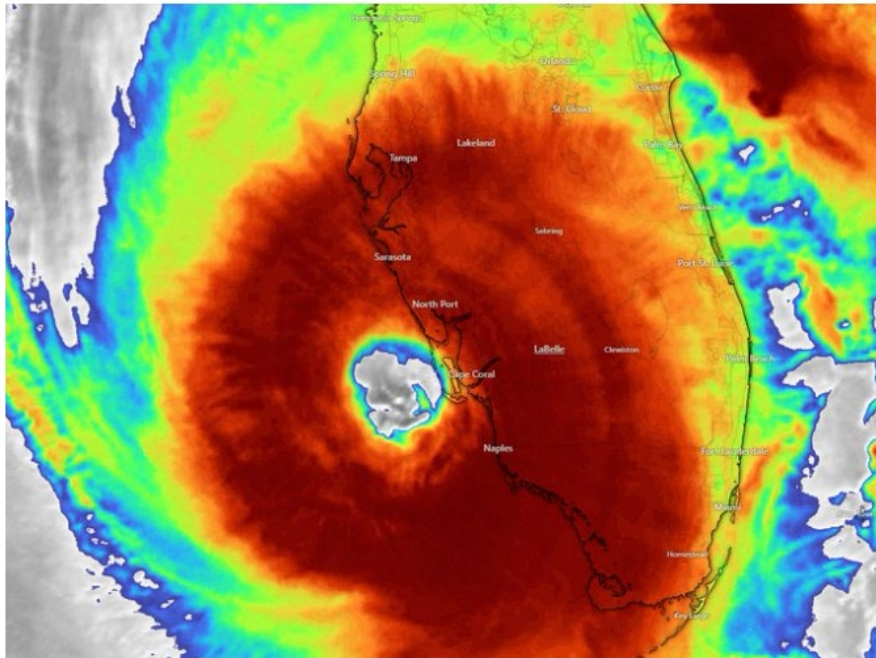
⁸ <https://twitter.com/pbcountysheriff/status/1575127010262847488?s=12&t=78hXLLBBj5kMubKKaEPTCg>

⁹ <https://www.pb.ia.org/airservice/arriving/> (last accessed September 28, 2022 at 03:22 p.m.)

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We recognize there is some degree of uncertainty here, and circumstances could change—in either direction—in the coming hours and days. But with travel currently scheduled for tomorrow morning, and with the radar currently appearing as set forth below, we are compelled to seek relief this afternoon.



We are available to appear by phone at any time to address any questions that the Court may have. In the meantime, unless the Court directs otherwise, we will begin taking appropriate steps to cancel our travel arrangements, and will inform the court reporting service that they do not need to send a reporter and videographer to appear on Friday. We thank the Court for its consideration of this time-sensitive matter.

Respectfully submitted,

John C. Quinn

cc: Roberta A. Kaplan (by email)
Andrew G. Celli (by email)

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