

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL COHEN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant,

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18-MJ-3161 (KMW)

**AFFIRMATION OF
ALAN FUTERFAS**

I, Alan Futerfas, pursuant to 28 U.S.C. § 1746, do hereby declare and state:

1. Your affiant, Alan S. Futerfas, is counsel to the Trump Organization, an Intervenor herein (“Intervenor”), and is fully familiar with this Intervenor’s privilege designation process with the Special Master.

2. This Affirmation is respectfully submitted in accordance with the Court’s Order dated June 22, 2018. In that Order, the Court directed that any requests for additional time, beyond June 27, 2018, for an Intervenor to review materials and submit privilege designations to the Special Master be submitted by 6:00 p.m. today, June 23, 2018. For the reasons stated herein, this Affirmation respectfully requests until July 11, 2018 to complete the privilege designations to the Special Master of materials it received on Wednesday, June 20, 2018 and yesterday, June 22, 2018.

3. To date, Intervenor has fully complied with all directives and deadlines set by the Court or by the Special Master. Our privilege designations have been carefully considered by multiple attorneys, including your affiant, in order to reduce unwarranted privilege designations and spare the valuable time of the Special Master. In addition, as we noted in our original

application to intervene, Mr. Cohen was involved in communications with Intervenor's employees, in-house attorneys, outside counsel, and co-counsel, on a wide-ranging variety of matters spanning Intervenor's various businesses, real estate projects, licensing matters and litigations. Significant time was required to properly parse through these matters and make appropriate privilege designations.

4. Where possible, documents have been provided in redacted form. Where redacted documents were provided, the Special Master designations consisted of a paired redacted document and the document in which the proposed redaction is transparent and can be viewed by the Special Master. This was done in order for the Special Master to easily see and rule on the proposed redaction in the context of the entire document.

5. Intervenor's designation process is time consuming but we believe that it has reduced unwarranted privilege designations and made the Special Master's determination process much more efficient.

6. On Wednesday, June 20, 2018, after a password issue was resolved, Intervenor was able to receive and review production MC11. MC11 consists of approximately 22,000 documents retrieved using Intervenor's search terms and is, by several orders of magnitude, the largest production to date. The process of carefully designating privilege – a process Intervenor began immediately – will take several weeks.

7. Yesterday evening, Friday June 22, 2018, Intervenor received MC12, the twelfth production from the McDermott firm. While much smaller than MC11, MC12 contains a number of audio files and documents. While we have not begun the review of MC12, based on a description of its contents, we estimate that the designation/redaction process will take three to four days.

8. For the reasons stated herein, Intervenor respectfully requests until July 11, 2018 to complete the privilege designation process for productions MC11 and MC12.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 23, 2018
New York, New York

/s/ Alan Futerfas
Alan Futerfas