

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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Probate Proceeding, Will of :  
 : Index No. 3949/1999  
 :  
 FRED C. TRUMP :  
 a/k/a FREDERICK CHRIST TRUMP, : **NOTICE OF PETITION**  
 :  
 Deceased. :  
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PLEASE TAKE NOTICE, that upon the annexed Petition of Petitioner Robert S. Trump verified on June 23, 2020, an application will be made before the Supreme Court of the State of New York, Queens County, at the Courthouse, located at 88-11 Sutphin Blvd., Jamaica, New York 11435 on July 31, 2020 at 9:30 a.m., or as soon thereafter as counsel can be heard, for a judgment (i) pursuant to CPLR 6301, permanently enjoining and barring Mary L. Trump and Simon & Schuster, Inc., together with anyone acting in concert with them or on their behalf, from publishing or causing to be published any diary, memoir, story, interview, description or other account of Mary L. Trump's relationship with any of the Proponents<sup>1</sup> to the extent prohibited under the terms of the Settlement Agreement; (ii) damages according to proof; (iii) a judicial declaration that Mary L. Trump's statements in the Book violate her obligations under the Settlement Agreement; (iv) costs of suit; and (v) such other and further relief as the Court may deem proper.

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<sup>1</sup> All defined terms referenced but not defined herein shall have the same meaning as in the accompanying Petition.

PLEASE TAKE FURTHER NOTICE, that an answer and supporting affidavits, if any, shall be served at least seven days before the aforesaid date of hearing.

Dated: New York, New York  
June 23, 2020

HARDER LLP

By: 

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*Attorneys for Petitioner*

SURROGATE’S COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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Probate Proceeding, Will of :  
Index No. 3949/1999  
FRED C. TRUMP :  
a/k/a FREDERICK CHRIST TRUMP, :  
Deceased. : **PETITION**  
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TO THE SURROGATE’S COURT OF THE STATE OF NEW YORK, COUNTY OF  
QUEENS:

The petition of Robert S. Trump by his attorneys, Harder LLP and Kiley, Kiley & Kiley PLLC, respectfully shows:

1. Petitioner Robert S. Trump is the son of the late Frederick Christ Trump (“Fred Trump”), and Mary L. Trump is Fred Trump’s granddaughter.
2. Fred Trump died in 1999, and his surviving spouse, Mary Anne, died in 2000.
3. There was ensuing litigation among some of the Trumps’ surviving children and grandchildren, including litigation in the Queens County Surrogate’s Court (Will of Fred C. Trump, No. 3949/1999), and on April 10, 2001, seven of the Trumps’ surviving relatives decided to put an end to the litigation and enter into a settlement agreement (“Settlement Agreement”).
4. A material element of the Settlement Agreement was a mutual confidentiality provision providing that the parties who had objected to Fred Trump’s will, including Mary Trump (collectively, the “Objectors”), and the proponents of Fred Trump’s will, Petitioner ROBERT S. TRUMP, his brother, the President of the United States Donald J. Trump and their sister, Judge Maryanne Trump Barry (collectively the “Proponents”), would not publish any account concerning the litigation or their relationship. The only exception is if all of the

Proponents consented to the publication. The Proponents in turn promised that they would not publish any account of their relationship with any of the Objectors, including Mary L. Trump.

5. Confidentiality was at the essence of the Settlement Agreement. The decedent, Fred Trump, had been a famous figure in New York real estate. Fred's son Donald also had become a famous real estate developer. Another party to the Settlement Agreement, Fred's daughter, Judge Barry, was a judge of the United States Court of Appeals for the Third Circuit. The court cases involving Fred Trump's will had received extensive publicity and the family made a decision collectively to enter into an agreement that would maintain the confidentiality of the family's private matters.

6. As part of the confidentiality stipulation, each party agreed that violations of the confidentiality clause in the Settlement Agreement would be material, that there was no adequate remedy at law and that the non-breaching parties would be entitled to injunctive relief. They also agreed that this Court would reserve jurisdiction over all parties to the Settlement Agreement in order to implement and carry out its terms.

7. On or about June 15, 2020, Mary L. Trump announced the publication of a new book, entitled *Too Much and Never Enough: How My Family Created the World's Most Dangerous Man* (the "Book"). The Book is scheduled for release on July 28, 2020. Petitioner has not yet seen the contents of the Book, however, in publicity for the Book, the publisher and/or Mary L. Trump has stated that a major topic of the Book will be her relationship with the Proponents. This topic is expressly prohibited under the Settlement Agreement and Petitioner Robert S. Trump never consented to the publication of the Book.

8. Under the terms of the Settlement Agreement, Robert S. Trump is entitled to an injunction prohibiting Mary L. Trump from publishing any account of her relationship with any of the Proponents.

### **THE PARTIES**

9. Petitioner Robert S. Trump is an individual residing in Nassau County, New York. He is the son of Fred Trump and is one of the Proponents under the Settlement Agreement.

10. Mary L. Trump is an individual residing in Nassau County, New York. She is the granddaughter of Fred Trump and is one of the Objectors under the Settlement Agreement.

11. On information and belief, Simon & Schuster, Inc. is a corporation organized under the laws of New York and with its principal place of business in New York City. On information and belief, Simon & Schuster, Inc. intends to act on Mary L. Trump behalf in causing the publication to the world of her statements, made in violation of the Settlement Agreement, in the Book.

### **STATEMENT OF FACTS**

12. Fred Trump died on June 25, 1999. He was domiciled in Queens County at the time of his death.

13. Mary Anne Trump, Fred Trump's surviving spouse, died on August 7, 2000.

14. The Proponents, including Petitioner, propounded Fred Trump's and Mary Anne Trump's wills for probate in this Court.

15. Mary L. Trump, along with Fred C. Trump III, submitted objections to the wills of Fred and Mary Anne Trump in this Court, and along with other members of the family, also filed suit in Nassau County against Fred Trump's estate.

16. Discovery was conducted in the will contest proceedings pursuant to SCPA § 1404. There was also extensive and costly discovery and motion practice in the Nassau County action.

17. On April 10, 2001, the Proponents, including Petitioner Robert L. Trump and the objecting parties, including Mary L. Trump, entered into a global Settlement Agreement settling all of the then-pending legal actions among them.

18. The Settlement Agreement provides that “WHEREAS, the parties hereto wish to avoid the uncertainty, further expense and delay incident to protracted litigation and believe it is in the best interest of all concerned that the controversies raised by these proceedings be compromised and settled, on a ‘global basis’ in order to resolve all their differences”.

19. The parties to the Settlement Agreement agreed to join in a motion to seal the court records in the court cases they were settling.

20. In the Settlement Agreement, Mary L. Trump agreed to not “directly or indirectly publish or cause to be published any diary, memoir, letter, story, photograph, interview, article, essay, account, or description or depiction of any kind whatsoever, whether fictionalized or not, concerning their litigation or relationship with the [Proponents]... or assist or provide information to others in connection therewith”. The only exception to this obligation is if consents are obtained from all of the Proponents: Petitioner Robert S. Trump, Maryanne Trump Barry and Donald Trump, as well as officers and directors of two companies named in the Settlement Agreement.

21. The Settlement Agreement continues: “As used in the preceding sentence, the terms ‘publish’ and ‘publication’ shall be deemed to include the presentation or reproduction of

written, verbal or visual material in any communication medium, including, without limitation, books....”

22. The Settlement Agreement continues: “Any violation of the terms of this [confidentiality clause] shall constitute a material breach of this agreement.”

23. The Settlement Agreement continues: “In the event such breach occurs, [Objectors, including Mary Trump], as well as their ‘counsel’, hereby consent to the granting of a temporary or permanent injunction against them (or against any agent acting in their behalf) by any court of competent jurisdiction prohibiting them (or their agent) from violating the terms of this Paragraph.”

24. The Settlement Agreement continues: “In any proceeding for any injunction and upon any motion for a temporary or permanent injunction, [Objectors] and their ‘counsel’ agree that their ability to answer in damages shall not be a bar or imposed as a defense to the granting of such temporary or permanent injunction. [Objectors] and their ‘counsel’ further agree that [Proponents] will not have an adequate remedy at law in the event of any breach by [Objectors] hereunder and [Proponents] will suffer irreparable damage and injury in event of any such breach.”

25. Mary L. Trump received good and valuable and adequate consideration for entering into the Settlement Agreement, including a substantial financial settlement, mutual releases, and a confidentiality stipulation to her benefit.

26. On information and belief, Simon & Schuster, Inc. announced the imminent publication of the Book for the first time in an exclusive article in The Daily Beast published on or about June 15, 2020.

27. On information and belief, Simon & Schuster, Inc. originally announced an August 11, 2020 release date, and has moved that date up to July 28, 2020.

28. Robert S. Trump does not yet know the exact content of the Book. However, Mary L. Trump and Simon & Schuster, Inc. have described the Book to various journalistic outlets as well as booksellers such as Amazon.com as containing an “insider’s perspective” of “countless holiday meals”, “family interactions” and “family events”. These descriptions make clear that the Book will contain confidential information about Mary L. Trump’s relationship with Proponents together with the entire Trump family. This information includes:

- a. Information about how Mary L. Trump provided the family’s confidential tax returns to the New York Times
- b. Insight into the supposed “inner workings” of the Trump family;
- c. Allegations that the late Fred Trump and the President neglected Mary’s father, Fred Trump Jr., supposedly contributing to his early death; and
- d. Mary Trump’s personal observations, allegedly informed by her training as a psychologist, about her supposedly “toxic” family.

29. Robert S. Trump has never consented to the publication of the Book. On information and belief, neither have any of the other Proponents.



WHEREFORE, Petitioner Robert S. Trump prays for a final judgment:

- a. pursuant to CPLR 6301, permanently enjoining and barring Mary L. Trump and Simon & Schuster, Inc., together with anyone acting in concert with them or on their behalf, from publishing or causing to be published any diary, memoir, story, interview, description or other account of Mary L. Trump's relationship with any of the Proponents to the extent prohibited under the terms of the Settlement Agreement;
- b. Damages according to proof;
- c. A judicial declaration that Mary L. Trump's statements in the Book violate her obligations under the Settlement Agreement;
- d. Costs of suit; and
- e. Such other and further relief as the Court may deem proper.

Dated: New York, New York  
June 23, 2020

HARDER LLP

By: 

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*Attorneys for Petitioner*

VERIFICATION

STATE OF NEW YORK    )  
                                  : ss.:  
COUNTY OF NASSAU    )

ROBERT S. TRUMP, being duly sworn, deposes and says:

I am the Petitioner herein. I have read the foregoing Petition and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

  
\_\_\_\_\_  
ROBERT S. TRUMP

Sworn to before me this  
23<sup>rd</sup> day of June, 2020

  
\_\_\_\_\_  
NOTARY PUBLIC

**James D. Kiley**  
Notary Public, State of New York  
No. 02K16003270  
Qualified in Nassau County  
Commission Expires March 2, 2022

At the Surrogate's Court of the State of New York in and for the County of Queens, located at 88-11 Sutphin Blvd, Jamaica, NY 11435, on the \_\_\_ day of \_\_\_\_\_, 2020

P R E S E N T :

Hon. \_\_\_\_\_,  
Justice.

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 Probate Proceeding, Will of : Index No. 3949/1999  
  
 FRED C. TRUMP : **ORDER TO SHOW CAUSE IN**  
 a/k/a FREDERICK CHRIST TRUMP, : **SUPPORT OF MOTION FOR**  
 : **PRELIMINARY INJUNCTION**  
 Deceased. : **AND TEMPORARY**  
 : **RESTRAINING ORDER**  
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Upon the annexed Affidavit of Robert S. Trump sworn to June 23, 2020, the Emergency Affirmation of Charles J. Harder, Esq. dated June 23, 2020, the Petition of Robert S. Trump dated June 23, 2020, the Memorandum of Law in Support of Petitioner's Motion for a Preliminary Injunction and Temporary Restraining Order, together with all other papers and proceedings heretofore had herein; it is hereby

ORDERED, that Mary L. Trump and Simon & Schuster, Inc., or their attorneys, show cause before this Court at 88-11 Sutphin Blvd, Jamaica, NY 11435, on the \_\_\_ day of \_\_\_\_\_ 2020 at \_\_\_\_\_ o'clock in the \_\_. m., or as soon thereafter as counsel may be heard, why an order should not be made and entered herein:

Pursuant to CPLR § 6301, preliminarily enjoining and restraining Mary L. Trump and Simon & Schuster, Inc., together with their respective members, officers, employees, servants, agents, attorneys, representatives and all other persons acting

on behalf of or in concert with either or both of them, from publishing, printing or distributing, directly or indirectly, any book or any portions thereof in any medium containing any descriptions or accounts of Mary L. Trump's relationship with Robert S. Trump, Donald Trump, or Maryanne Trump Barry, or assisting any other person or entity in such publication, printing, or distribution, or providing such descriptions or accounts to any other person (other than counsel of record in this case).

And it is further

ORDERED, that pending the hearing and determination of Petitioner Robert S. Trump's within motion for a preliminary injunction, Mary L. Trump and Simon & Schuster, Inc., together with their respective members, officers, employees, servants, agents, attorneys, representatives and all other persons acting on behalf of or in concert with either or both of them, are hereby enjoined and restrained from publishing, printing or distributing any book or any portions thereof in any medium containing descriptions or accounts of Mary L. Trump's relationship with Robert S. Trump, Donald Trump, or Maryanne Trump Barry.

ORDERED, that service of a copy of this Order, together with the papers upon which it is granted, including the Petition herein, by both electronic mail and overnight courier, upon (i) Mary L. Trump, c/o her attorney(s), Anne Champion, Esq. ([achampion@gibsondunn.com](mailto:achampion@gibsondunn.com)), Gibson Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 and (ii) Simon & Schuster, Inc., c/o its attorney(s), Elizabeth McNamara ([lizmcnamara@dwt.com](mailto:lizmcnamara@dwt.com)), Davis Wright Tremaine LLP, 1251 Avenue of the Americas, 21<sup>st</sup> Floor, New York, New York 10020, shall be deemed good and sufficient service.

It is further ORDERED, that answering papers, if any, shall be served so as to be received by Petitioner's counsel on or before \_\_\_\_\_, 2020.

ENTER :

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SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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Probate Proceeding, Will of	:
	Index No. 3949/1999
FRED C. TRUMP	:
a/k/a FREDERICK CHRIST TRUMP,	: <b>AFFIDAVIT OF</b>
	: <b><u>ROBERT S. TRUMP</u></b>
Deceased.	:
	:
-----	x

STATE OF NEW YORK     )  
                                  )     ss.:  
COUNTY OF NASSAU     )

ROBERT S. TRUMP, being duly sworn, deposes and says that:

1. I am the Petitioner in this action.
2. On or about April 10, 2001, I entered into a Settlement Agreement with, among others, Respondent Mary L. Trump.
3. Attached hereto as **Exhibit A** is a true copy of that Settlement Agreement.
4. I have performed, or have been excused from performing, all terms of the Settlement Agreement, which remains binding among the parties, and stand ready, willing, and able to continue performing the terms of the agreement.
5. I never consented to Mary Trump's publication of a book about her relationship with me, President Donald J. Trump, or Judge Maryanne Trump Barry.
6. I submit this Affidavit in support of my motion for a preliminary injunction and temporary restraining order.

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

  
ROBERT S. TRUMP

Sworn before me this  
23<sup>rd</sup> day of June 2020

  
Notary Public

James D. Kiley  
Notary Public, State of New York  
No. 02K16003270  
Qualified in Nassau County  
Commission Expires March 2, 2022

## **Exhibit A**



STATE OF NEW YORK  
SURROGATE'S COURT, COUNTY OF QUEENS

-----X  
Probate Proceeding, Will of

FRED C. TRUMP  
a/k/a FREDERICK CHRIST TRUMP,

Deceased.

-----X  
Probate Proceeding, Will of

MARY ANNE TRUMP,

Deceased.

**AGREEMENT AND  
STIPULATION**

File No. 3949/1999

File No. \_\_\_\_\_/2001

-----X  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
LINDA C. TRUMP, MARY TRUMP, LISA and  
FRED C. TRUMP, III, individually and as parent  
and natural guardian of WILLIAM TRUMP, an infant  
under the age of 18 years,

Plaintiffs,

-against-

Index No. 6795/2000

DONALD J. TRUMP, ROBERT S. TRUMP, and  
MARYANNE TRUMP BARRY, as Preliminary  
Co-Executors of the Estate of FRED C. TRUMP,  
deceased, APARTMENT MANAGEMENT  
ASSOCIATES, INC. and TRUMP MANAGEMENT,  
INC.

Defendants.

-----X  
THIS AGREEMENT AND STIPULATION made as of the 10<sup>th</sup> day of April,  
2001, by and between DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP  
BARRY, (the "Proponents"), individually and as Co-Executors under a purported Will dated  
September 18, 1991, and offered for probate in the Surrogate's Court of the County of Queens  
(File Number 3949/1999) as the Last Will and Testament of FRED C. TRUMP, a/k/a

FREDERICK CHRIST TRUMP, deceased (the "Decedent") and FRED C. TRUMP III, residing at [REDACTED], and MARY L. TRUMP, residing at [REDACTED], ("Respondents/Objectants") to the Last Will and Testament

AND

by and between DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP BARRY, (the "Proponents"), individually and as Co-Executors under a purported Will dated September 18, 1991, and a purported First Codicil dated March 12, 1998, and a purported Second Codicil dated November 18, 1999, and being offered for probate in the Surrogate's Court of the County of Queens (File No. \_\_\_\_\_/2001) as the Last Will and Testament of MARY ANNE TRUMP, deceased (the "Decedent") and FRED C. TRUMP III, residing at [REDACTED], and Mary L. Trump, residing at [REDACTED], ("Respondents") to the Last Will and Testament and Codicils

AND

LINDA C. TRUMP, MARY TRUMP, LISA and FRED C. TRUMP, III, individually and as parent and natural guardian of WILLIAM TRUMP, an infant under the age of 18 years ("Plaintiffs") commenced an action against DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP BARRY, as Preliminary Co-Executors of the Estate of FRED C. TRUMP, deceased, APARTMENT MANAGEMENT ASSOCIATES, INC. and TRUMP MANAGEMENT, INC. ("Defendants") as it pertained to the cancellation of medical insurance coverage

AND

APARTMENT MANAGEMENT ASSOCIATES, INC. and TRUMP MANAGEMENT, INC. and DONALD TRUMP, MARY ANNE TRUMP BARRY and ROBERT S. TRUMP, as shareholders and officers and directors of same, and as partners in MIDLAND ASSOCIATES GROUP and as co-owners of certain ground leases described in Paragraph 14 hereof

**W I T N E S S E T H**

WHEREAS, FRED C. TRUMP a/k/a FREDERICK CHRIST TRUMP (the "Decedent") died on the 25<sup>th</sup> day of June, 1999, a resident of and domiciled in the County of Queens and State of New York, and

WHEREAS, the said "Decedent" (FCT) left a paper writing purporting to be his Last Will and Testament bearing date the 18<sup>th</sup> of September, 1991, and

WHEREAS, the "Will" was duly filed in the Surrogate's Court of the County of Queens along with the petition of DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP BARRY (the "Proponents") seeking probate thereof and the issuance of Letters Testamentary thereon to them, and

WHEREAS, by Order of the Queens County Surrogate's Court dated September 24, 1999, the "Proponents" have been appointed Preliminary Executors of the Estate of FRED C. TRUMP and have administered said estate in that capacity since appointment, and

WHEREAS, a Citation was issued on the aforesaid Probate Petition by the Queens County Surrogate's Court and jurisdiction has been completed, and the following persons have appeared in the proceeding by the law firms listed below:

Proponents:                      LOUIS D. LAURINO, ESQ.  
   Laurino & Laurino, Trial Counsel

229 Seventh Street, Suite 201  
Garden City, New York 11530

STEPHEN J. SCHWARTZ, ESQ.  
Attorney for "Proponents"  
3000 Marcus Avenue  
Lake Success, New York 11042

Objectants: JOHN J. BARNOSKY, ESQ.  
Farrell Fritz, PC  
EAB Plaza  
Uniondale, New York 11556 and,

WHEREAS, Objectants on March 23, 2000, filed objections to probate contending that the Will was the product of undue influence and fraud, that the decedent lacked testamentary capacity or understanding to execute the instrument and that said Will was not duly executed, and

WHEREAS, examinations pursuant to SCPA §1404 have been conducted, and

WHEREAS, MARY ANNE TRUMP, (MAT) the surviving spouse of FRED C. TRUMP, subsequently died on the 7<sup>th</sup> day of August, 2000, leaving a purported Last Will and Testament dated September 18, 1991 and a purported First Codicil dated March 12, 1998 and a purported Second Codicil dated November 18, 1999, now being filed for probate by the "Proponents" as Co-Executors in Queens County Surrogate's Court, and FRED C. TRUMP, III and MARY L. TRUMP are named distributees and "Respondents" in said probate proceeding, and

WHEREAS, LINDA C. TRUMP, MARY TRUMP, LISA and FRED C. TRUMP, III, individually and as parent and natural guardian of WILLIAM TRUMP, an infant under the age of 18 years, commenced an action against DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP BARRY, as Preliminary Co-Executors of the Estate of FRED C.

TRUMP, deceased, APARTMENT MANAGEMENT ASSOCIATES, INC. AND TRUMP MANAGEMENT, INC. as it pertains to the cancellation of medical insurance coverage, and

WHEREAS, subsequent to the filing of objections to the Last Will and Testament of FRED C. TRUMP and the commencement of the Supreme Court action in Nassau County pertaining to the enforcement of the rights of the Plaintiffs named therein to continue medical insurance coverage, there have been numerous motions, cross-motions, contempt proceedings, and discovery schedules established, as well as a pending motion to quash a subpoena and a cross-motion for a protective order, and

WHEREAS, all interested parties have been represented by counsel and none are under disability, and

WHEREAS, the parties hereto wish to avoid the uncertainty, further expense and delay incident to protracted litigation and believe it is in the best interest of all concerned that the controversies raised by these proceedings be compromised and settled, on a "global basis" in order to resolve all of their differences pertaining to the two (2) probate proceedings; the insurance case; partnership and corporate interests; as well as their interests in two (2) inter vivos trusts established by FRED C. TRUMP as the Settlor,

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and subject to the fulfillment of the following, it is agreed and stipulated as follows:

**CONFIDENTIALITY & SEALING OF RECORDS**

Uniform Rule 22NYCRR 216.1(a)

**Sealing:**

1. Each of the "Proponents" as well as the "Respondent/Objectants" as well as each of the Plaintiffs and Defendants in the Supreme Court, Nassau County action (Index No. 6795/2000) have unanimously agreed that the public has no interest in the particular information

involved in the “global” resolution of their differences. Confidentiality is, in certain circumstances, necessary in order to protect the litigants and encourage a fair resolution of the matters in controversy. The interests herein favor confidentiality and confidentiality should be provided, the “Objectants/ Respondents” and all Plaintiffs and Defendants in the Supreme Court, Nassau County action will join in the motion to seal these records.

Confidentiality:

2. Without obtaining the consent of DONALD J. TRUMP, ROBERT S. TRUMP and MARYANNE TRUMP BARRY, individually and as Co-Executors of the Estate of FRED C. TRUMP, deceased, and individually and as Co-Executors of the Estate of MARY ANNE TRUMP, deceased, as well as officers and directors of APARTMENT MANAGEMENT ASSOCIATES, INC. and TRUMP MANAGEMENT, INC. (“Proponents/Defendants”) in advance, FRED C. TRUMP, III and MARY L. TRUMP, LISA TRUMP and LINDA C. TRUMP (“Objectant/Plaintiffs”) as well as Farrell Fritz, P.C. (their counsel) shall not disclose any of the terms of this Agreement and Stipulation, and in addition shall not directly or indirectly publish or cause to be published, any diary, memoir, letter, story, photograph, interview, article, essay, account, or description or depiction of any kind whatsoever, whether fictionalized or not, concerning their litigation or relationship with the “Proponents/Defendants” or their litigation involving the Estate of FRED C. TRUMP and the Estate of MARY ANNE TRUMP, or assist or provide information to others in connection therewith. As used in the preceding sentence, the terms “publish” and “publication” shall be deemed to include the presentation or reproduction of written, verbal or visual material in any communication medium, including, without limitation, books, magazines, newspapers, theatrical productions of any kinds, movies, television, or radio, or the use of the internet in any language and in any jurisdiction. Any violation of the terms of

this Paragraph 2 shall constitute a material breach of this agreement. In the event such breach occurs, "Objectants/Plaintiffs", as well as their "counsel", hereby consent to the granting of a temporary or permanent injunction against them (or against any agent acting in their behalf) by any court of competent jurisdiction prohibiting them (or their agent) from violating the terms of this Paragraph. In any proceeding for any injunction and upon any motion for a temporary or permanent injunction, "Objectants/Plaintiffs" and their "counsel" agree that their ability to answer in damages shall not be a bar or imposed as a defense to the granting of such temporary or permanent injunction. "Objectants/Plaintiffs" and their "counsel" further agree that "Proponents/Defendants" will not have an adequate remedy at law in the event of any breach by "Objectants/Plaintiffs" hereunder and "Proponents/Defendants" will suffer irreparable damage and injury in event of any such breach.

3. Without obtaining the written consent of FRED C. TRUMP, III and MARY TRUMP, LISA TRUMP and LINDA C. TRUMP ("Objectants/Plaintiffs") in advance, DONALD J. TRUMP, ROBERT S. TRUMP and MARY ANNE TRUMP BARRY, individually and as Co-Executors of the Estate of FRED C. TRUMP, deceased, and individually and as Co-Executors of the Estate of MARY ANNE TRUMP, deceased, and as officers and directors of APARTMENT MANAGMENT ASSOCIATES, INC. and TRUMP MANAGEMENT, INC. ("Proponents/Defendants") as well as Stephen J. Schwartz, Esq. and Louis D. Laurino, Esq. (their counsel) shall not disclose any of the terms of this Agreement and Stipulation and in addition shall not disclose any of the terms of the Agreement and Stipulation, and in addition shall not directly or indirectly publish or cause to be published, any diary, memoir, letter, story, photograph, interview, article, essay, account, or description or depiction of any kind whatsoever, whether fictionalized or not, concerning their litigation or relationship with the

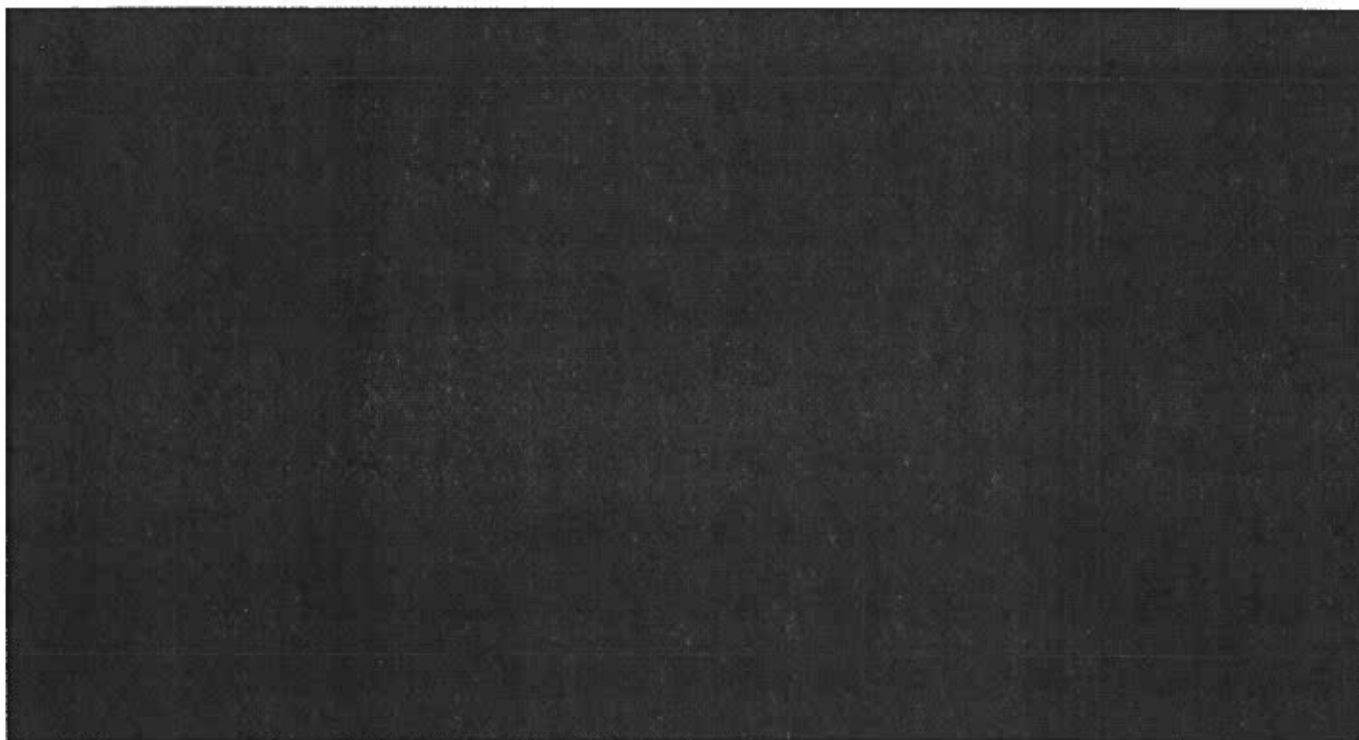
“Proponents/Defendants”, “Objectants/Plaintiffs” or their litigation involving the Estate of FRED C. TRUMP and the Estate of MARY ANNE TRUMP, or assist or provide information to others in connection therewith. As used in the preceding sentence, the terms “publish” and “publication” shall be deemed to include the presentation or reproduction of written, verbal or visual material in any communication medium, including, without limitation, books, magazines, newspapers, theatrical productions of any kinds, movies, television, or radio or the use of the internet in any language and in any jurisdiction. Any violation of the terms of this Paragraph 3 shall constitute a material breach of the Agreement. In the event such breach occurs, “Proponents/Defendants”, as well as their “counsel”, hereby consent to the granting of a temporary or permanent injunction against them (or against any agent acting in their behalf) by any Court of competent jurisdiction prohibiting them (or their agent) from violating the terms of this Paragraph. In any proceeding for any injunction and upon any motion for a temporary or permanent injunction. “Proponents/Defendants” and their “counsel” agree that their ability to answer in damages shall not be a bar or imposed as a defense to the granting of such temporary or permanent injunction. “Proponents/Defendants” and their “counsel” further agree that “Objectants/Plaintiffs” will not have an adequate remedy at law in the event of any breach by “Proponents/Defendants” hereunder and “Objectants/Plaintiffs” will suffer irreparable damage and injury in event of any such breach.

Paragraphs 1, 2 or 3 are not violated in the event any party hereto is compelled by Court order to disclose any of the information deemed confidential pursuant to this Agreement; provided however, that the party required to disclose, prior to disclosure, provides notice of such requirement to the other parties so that any of such other parties may seek a protective order or other appropriate remedy. In the event such protective order or other remedy is not obtained, the

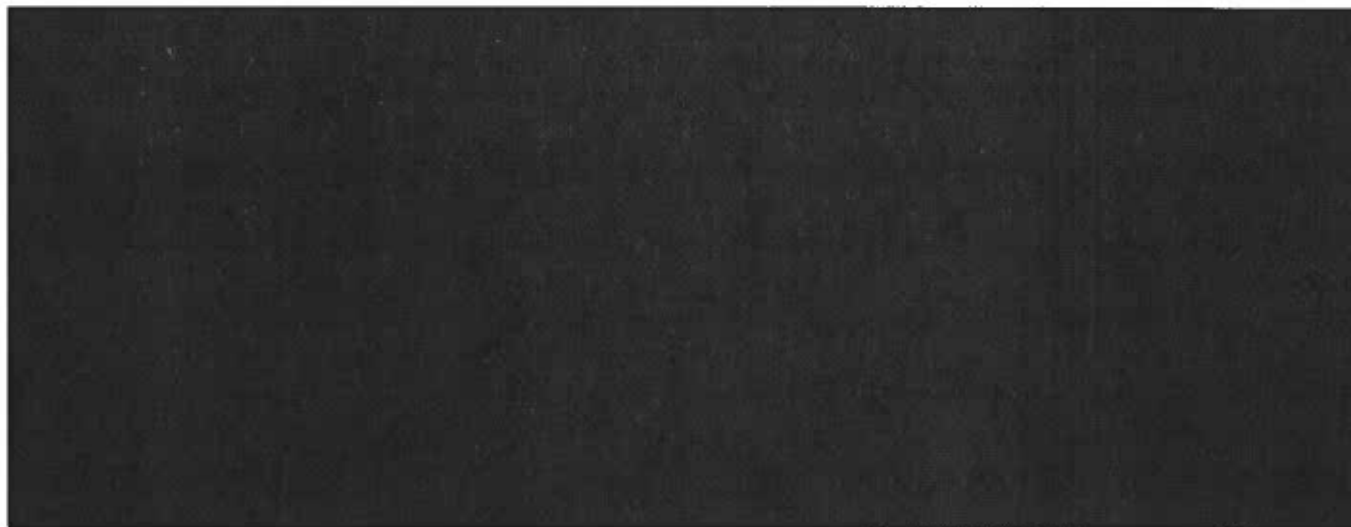


party required to disclose shall disclose only that portion of the information that is legally required and reasonable efforts will be made to obtain reasonable assurance that confidential treatment will be afforded to the information. In addition, the parties hereto may disclose those material and necessary matters covered in said paragraphs in any proceeding to enforce this Agreement.

**PROBATE PROCEEDING - ESTATE OF FRED C. TRUMP**



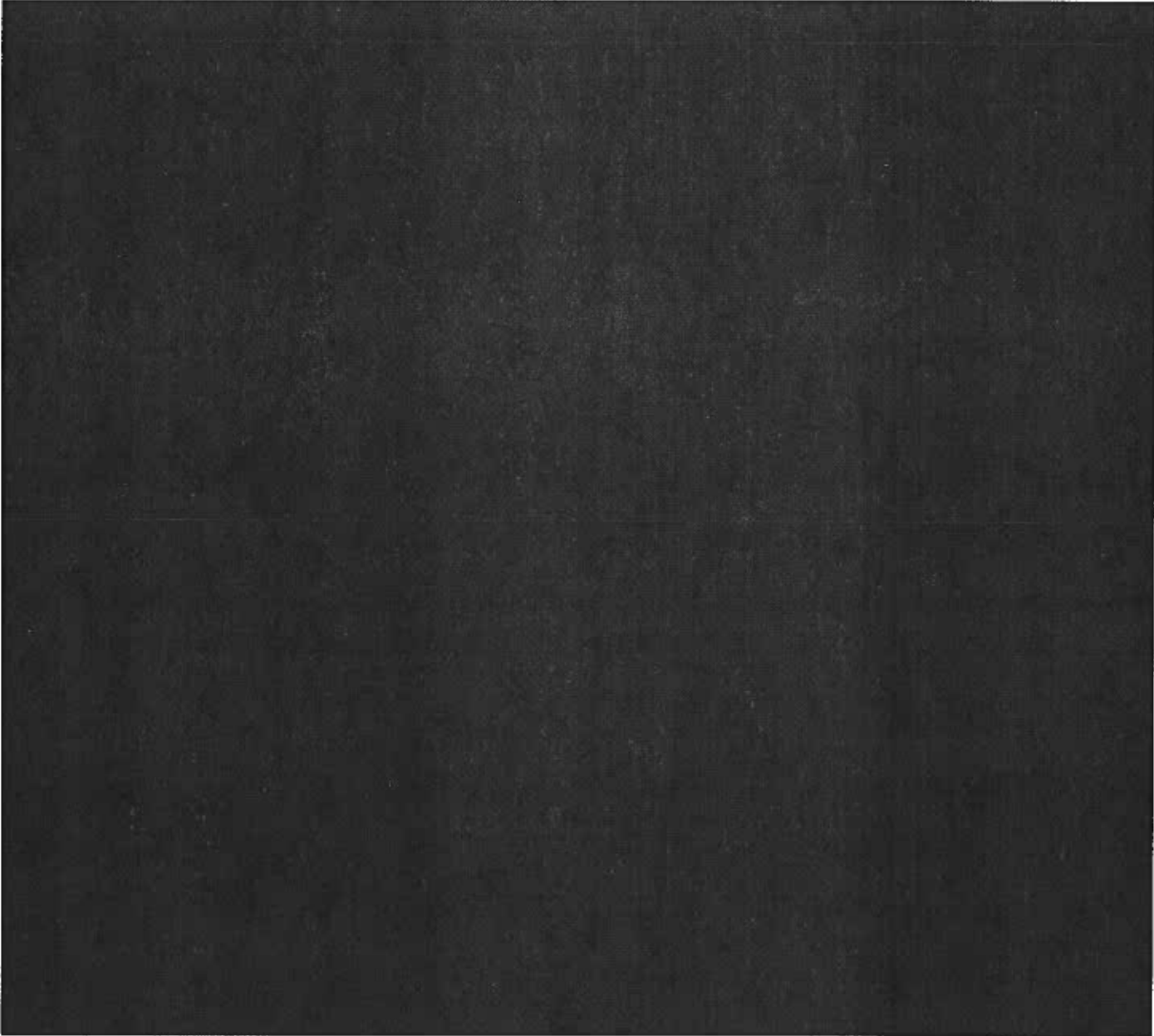
**PROBATE PROCEEDING - ESTATE OF MARY ANNE TRUMP**

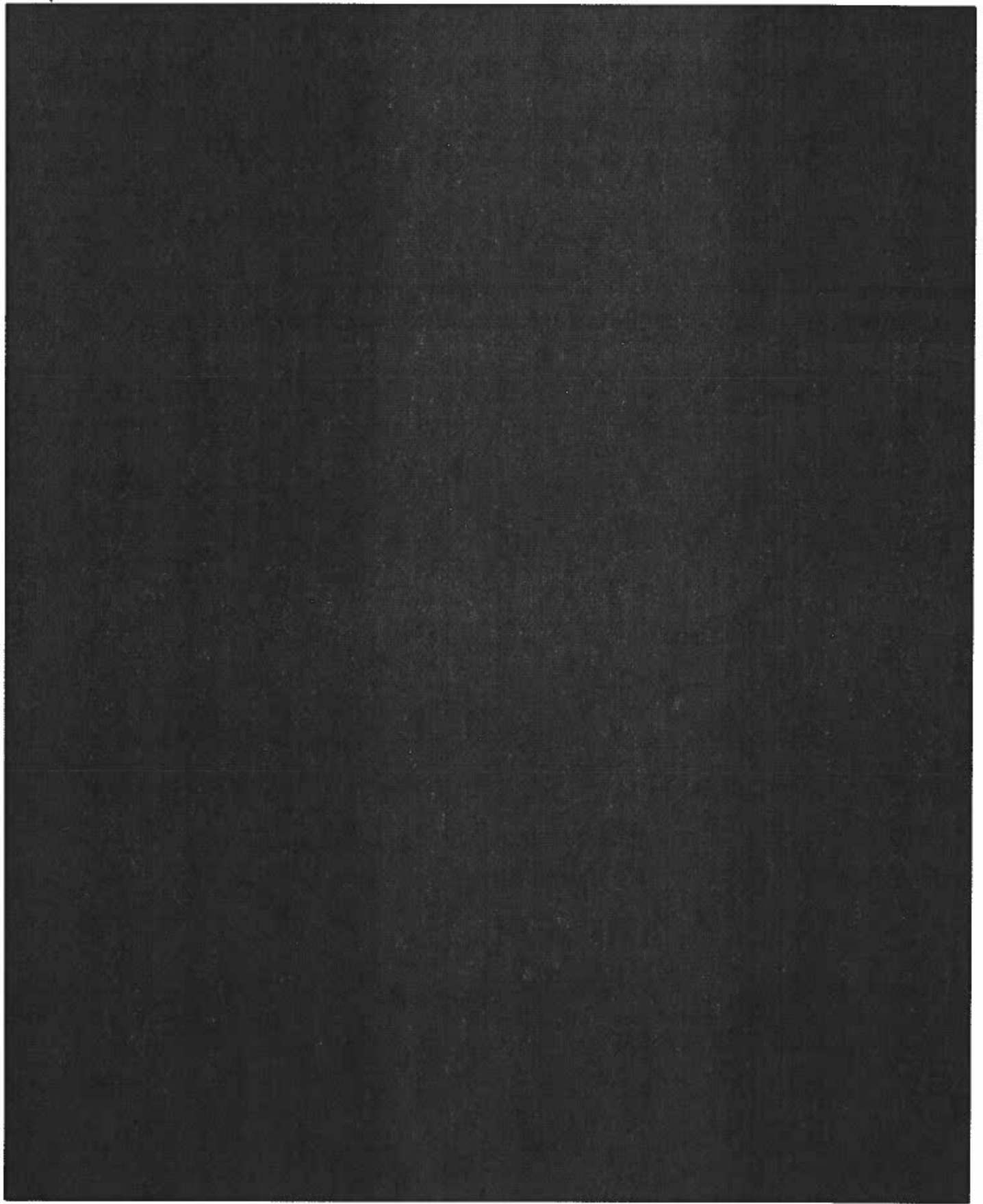


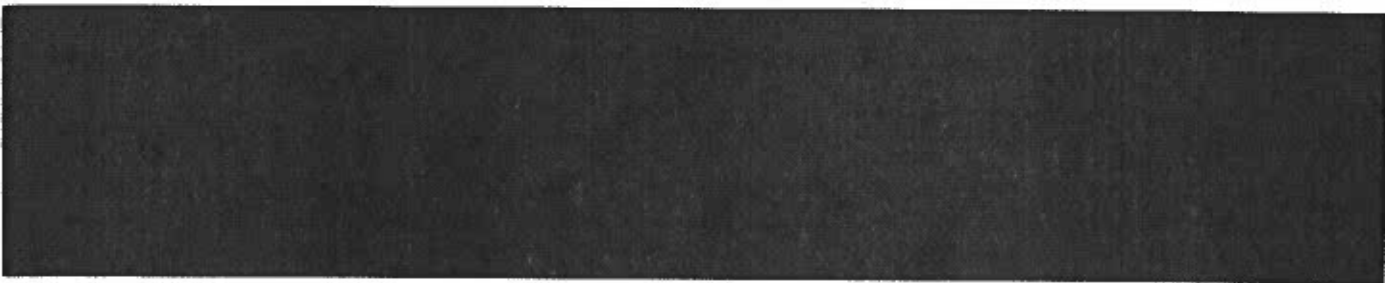


**SUPREME COURT, NASSAU COUNTY ACTION**

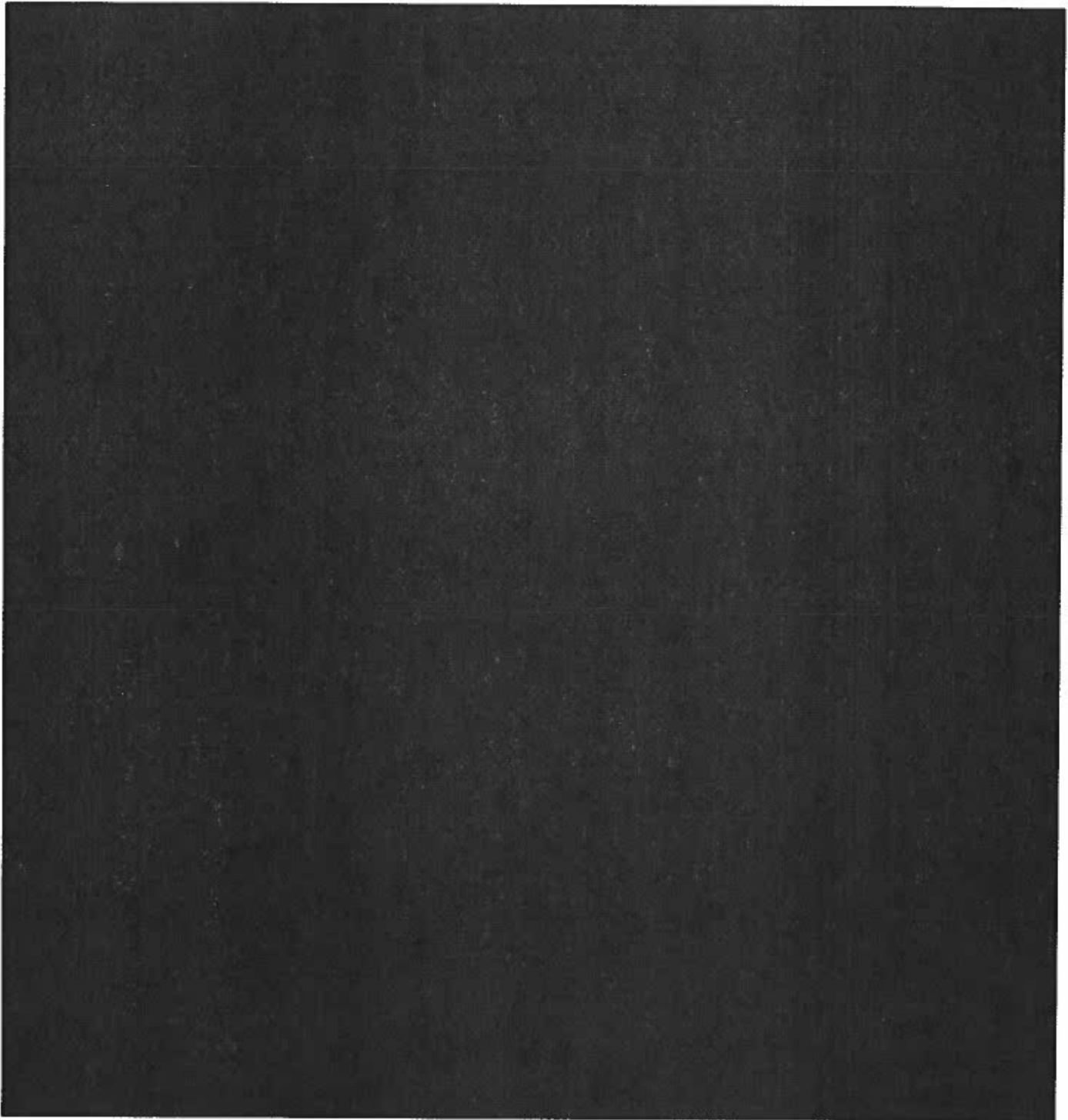
Index No. 6795/2000

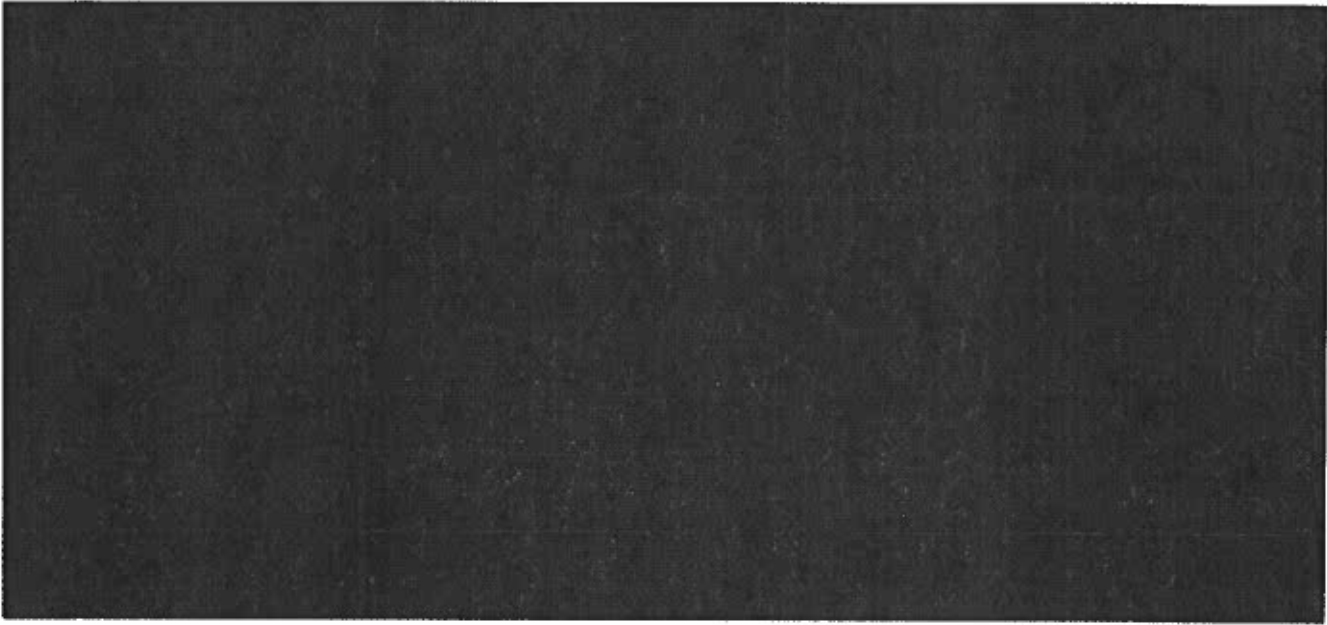




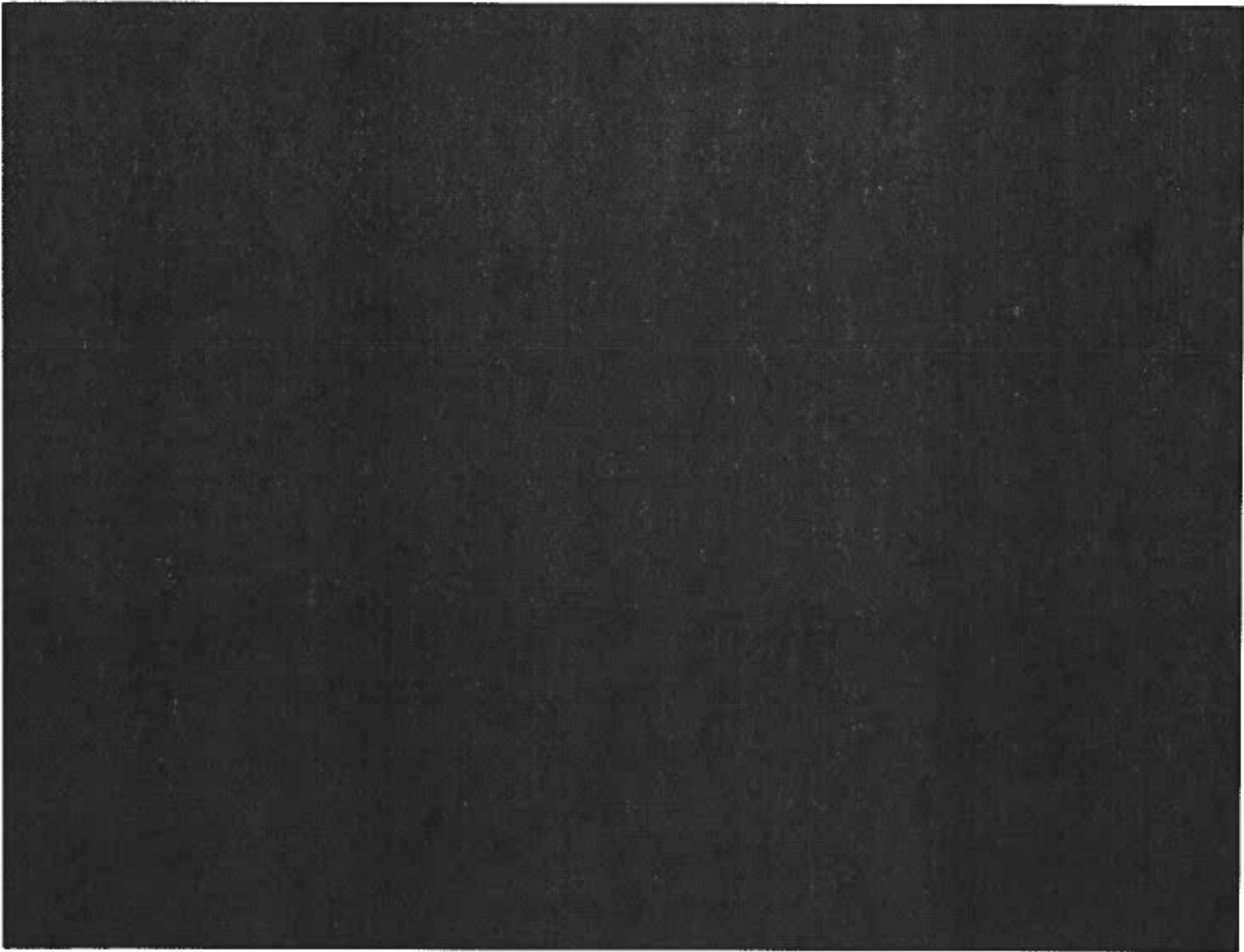


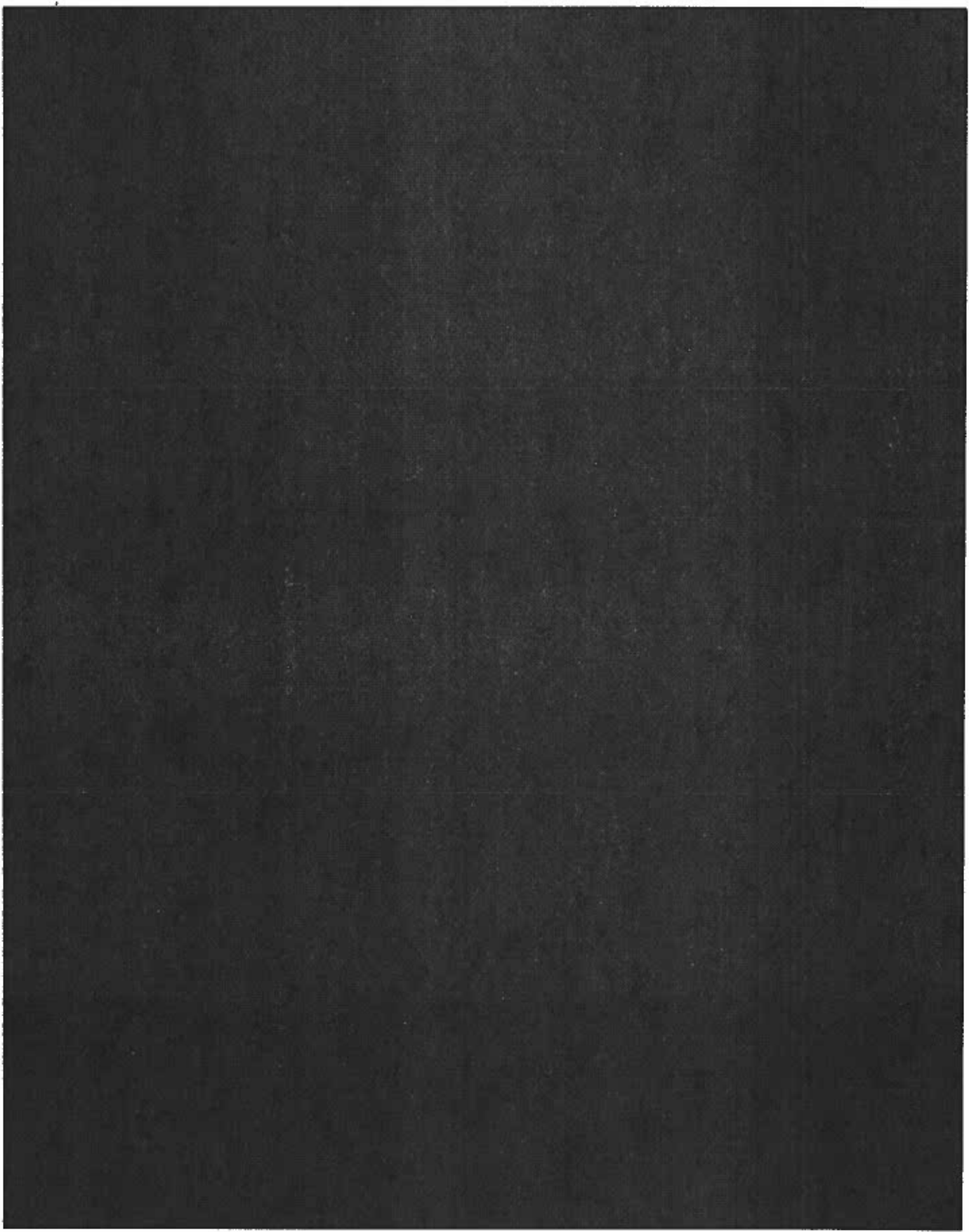
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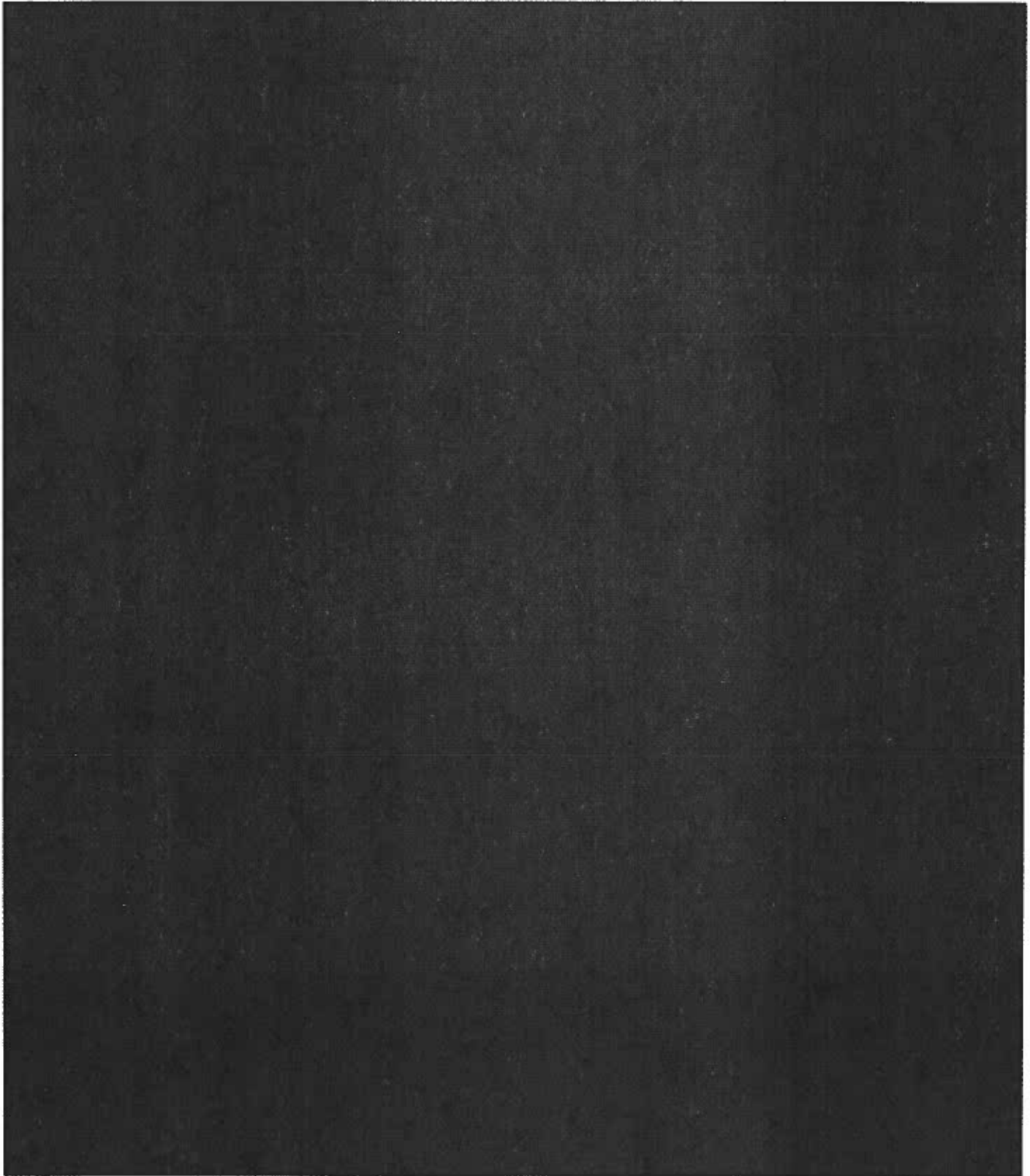


**GROUND LEASES**

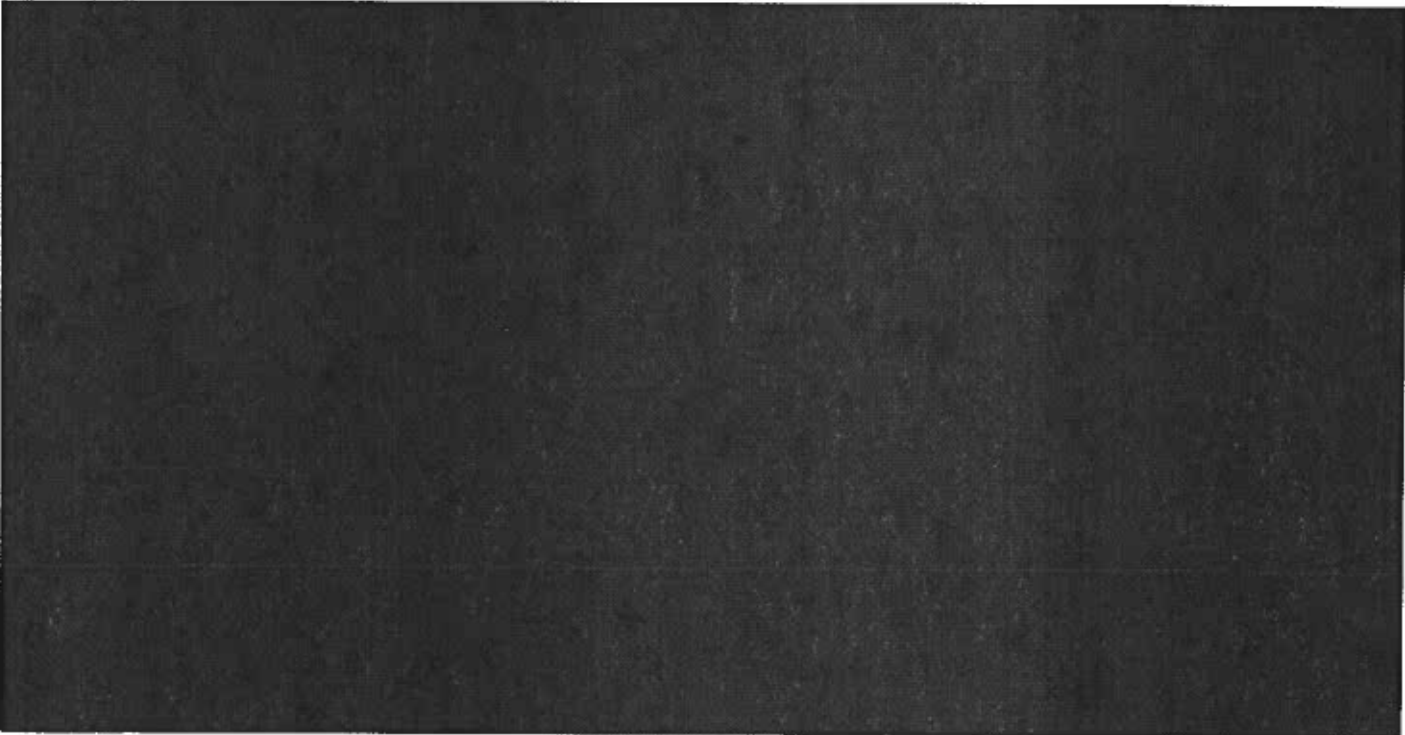




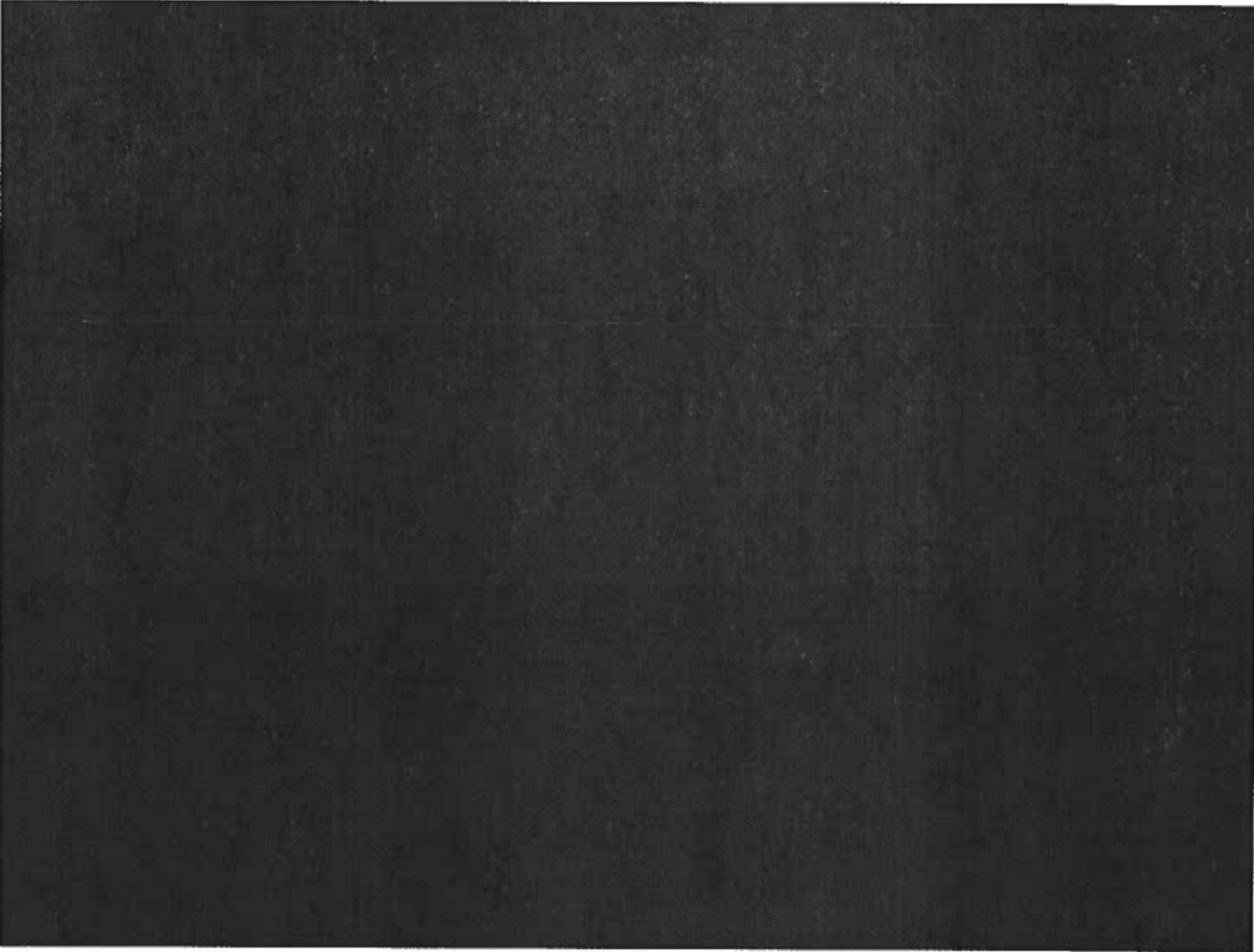
1976 TRUST AGREEMENTS



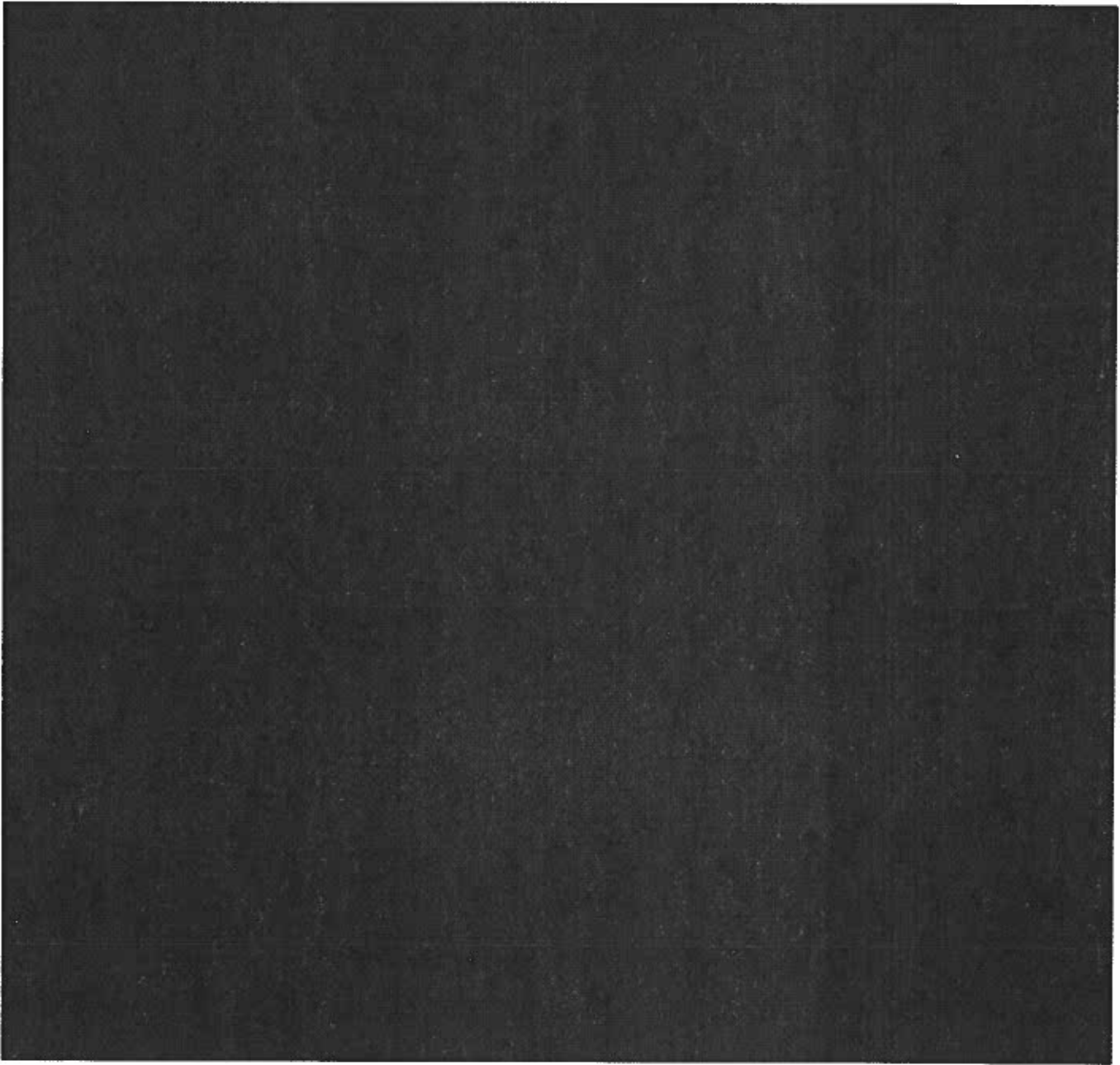




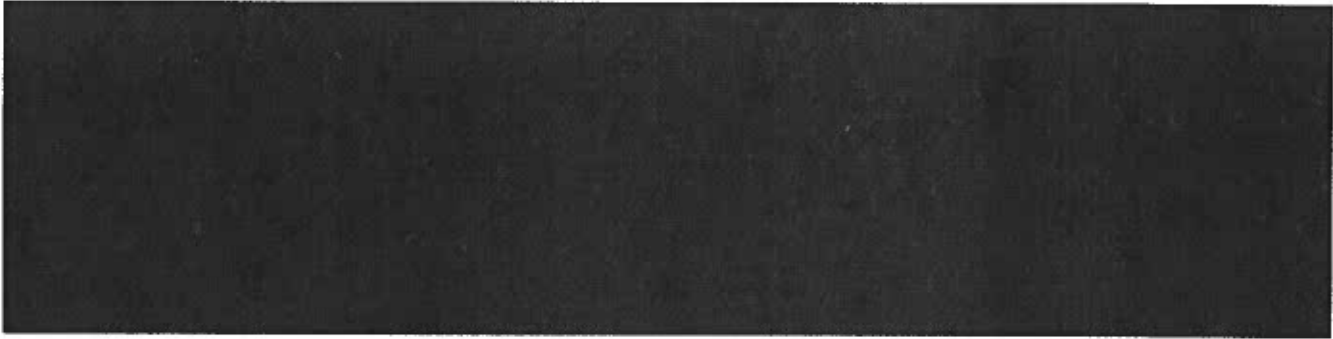
**CONSIDERATION**

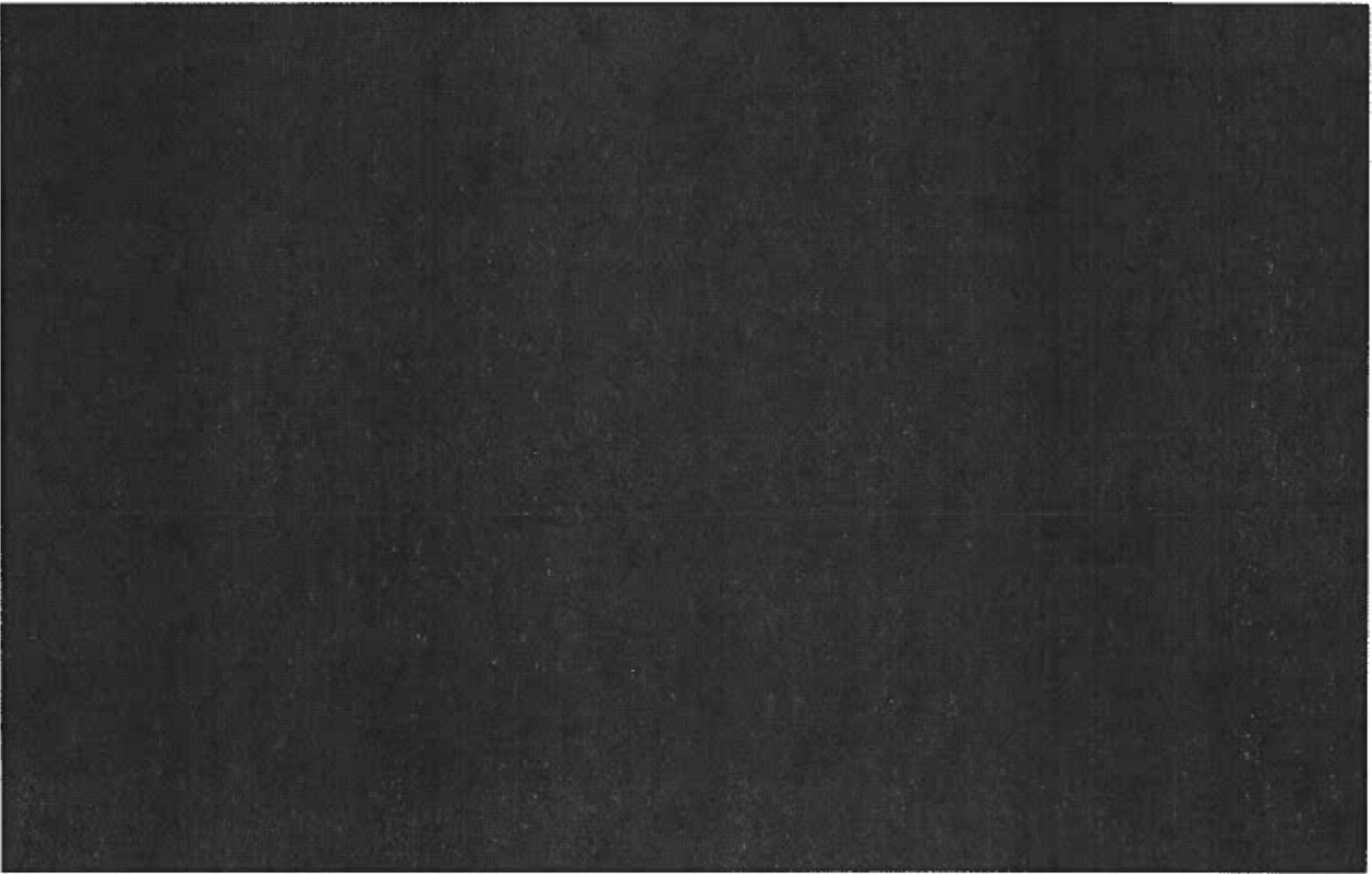






CONSIDERATION





22. The parties agree that each has had sufficient opportunity to review this Agreement and Stipulation with their attorney and each executes this instrument after due consideration and of his or her own volition.

23. This instrument may be executed in one or more counterparts, each of which will be deemed an original, but all of which together shall be deemed to constitute one and the same instrument.

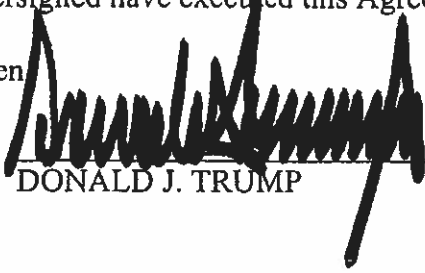
24. The execution of this Agreement and Stipulation is being completed on a voluntary basis and each party represents that they were under no compulsion to execute this agreement and they have been fully advised throughout the negotiations to resolve their differences between the parties as to all negotiations and representations made to each other as well as to the Court.

25. It is agreed that the Queens County Surrogate's Court shall retain jurisdiction over all parties to this Agreement and Stipulation in order to implement and carry out any of the terms of his Agreement and Stipulation.

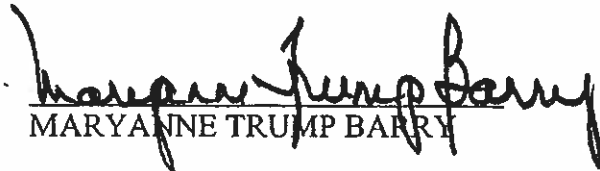
26. Neither this Settlement Agreement, nor any provision hereof, shall be amended or modified, except by an agreement in writing duly subscribed and acknowledged in the form to entitle a deed to be recorded by each of the parties hereto with the same formality as this settlement Agreement and Stipulation.

27. This Agreement and Stipulation shall be construed in all respects by the law of the State of New York.

IN WITNESS WHEREOF, the undersigned have executed this Agreement and  
Stipulation as of the date and year first above written

  
DONALD J. TRUMP

  
ROBERT S. TRUMP

  
MARYANNE TRUMP BARRY

\_\_\_\_\_  
FRED C. TRUMP, III

\_\_\_\_\_  
MARY L. TRUMP

\_\_\_\_\_  
LINDA C. TRUMP

\_\_\_\_\_  
LISA TRUMP

IN WITNESS WHEREOF, the undersigned have executed this Agreement and  
Stipulation as of the date and year first above written.

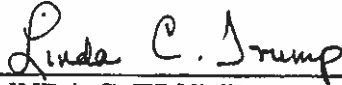
\_\_\_\_\_  
DONALD J. TRUMP

\_\_\_\_\_  
ROBERT S. TRUMP

\_\_\_\_\_  
MARYANNE TRUMP BARRY

  
\_\_\_\_\_  
FRED C. TRUMP, III

\_\_\_\_\_  
MARY L. TRUMP

  
\_\_\_\_\_  
LINDA C. TRUMP

\_\_\_\_\_  
LISA TRUMP

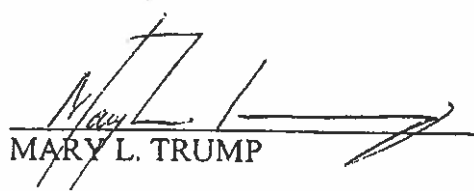
IN WITNESS WHEREOF, the undersigned have executed this Agreement and Stipulation as of the date and year first above written.

\_\_\_\_\_  
DONALD J. TRUMP

\_\_\_\_\_  
ROBERT S. TRUMP

\_\_\_\_\_  
MARYANNE TRUMP BARRY

\_\_\_\_\_  
FRED C. TRUMP, III

  
\_\_\_\_\_  
MARY L. TRUMP

\_\_\_\_\_  
LINDA C. TRUMP

  
\_\_\_\_\_  
LISA TRUMP

Escrowee:

*Louis D. Laurino*

LOUIS D. LAURINO, ESQ.

FARRELL FRITZ, P.C.

by/& for: *John J. Barnosky*

JOHN J. BARNOSKY, ESQ.

*Stephen J. Schwartz*

STEPHEN J. SCHWARTZ, ESQ.

DURBEN & TOSTI

*Irwin Durben*  
by: IRWIN DURBEN, ESQ.

PARAGRAPHS 1, 2 AND 3 ARE LIMITED TO TRUSTS ONLY. OF WHICH I WAS TRUSTEE

*Jay Goldberg*  
JAY GOLDBERG, P.C.

STATE OF NEW YORK )  
COUNTY OF New York )SS.:

On the 9<sup>th</sup> day of APRIL in the year 2001, before me, the undersigned, personally appeared DONALD J. TRUMP, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Louis D. Laurino*  
Notary Public

LOUIS D. LAURINO  
Notary Public, State of New York  
No. 4995194  
Qualified in Nassau County  
Commission Expires April 20, 199~~9~~ 2002

STATE OF NEW YORK )  
COUNTY OF New York )SS.:

On the 9<sup>th</sup> day of APRIL in the year 2001, before me, the undersigned, personally appeared ROBERT S. TRUMP, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Louis D. Laurino*  
Notary Public

LOUIS D. LAURINO  
Notary Public, State of New York  
No. 4995194  
Qualified in Nassau County  
Commission Expires April 20, 199~~9~~ 2002

STATE OF NEW YORK )  
COUNTY OF New York )SS.:

On the 9<sup>th</sup> day of APRIL in the year 2001, before me, the undersigned, personally appeared MARYANNE TRUMP BARRY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Louis D. Laurino*  
Notary Public

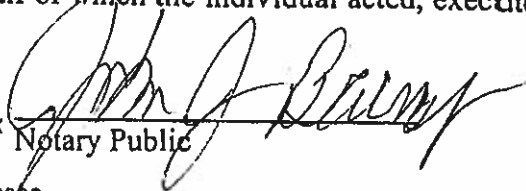
LOUIS D. LAURINO  
Notary Public, State of New York  
No. 4995194  
Qualified in Nassau County  
Commission Expires April 20, 199~~9~~ 2002



STATE OF NEW YORK )  
 )SS.:  
COUNTY OF Nassau )

On the 9 day of April in the year 2001, before me, the undersigned, personally appeared FRED C. TRUMP, III personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

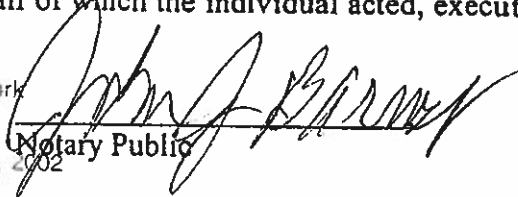
JOHN J. BARNOSKY  
Notary Public, State of New York  
No. 02BA0167250  
Qualified in Suffolk County  
Commission Expires February 28, 2002



STATE OF NEW YORK )  
 )SS.:  
COUNTY OF Nassau )

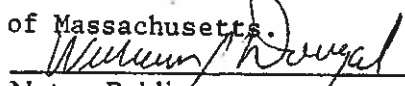
On the 9 day of April in the year 2001, before me, the undersigned, personally appeared MARY L. TRUMP, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

JOHN J. BARNOSKY  
Notary Public, State of New York  
No. 02341134  
Qualified in Suffolk County  
Commission Expires February 28, 2002



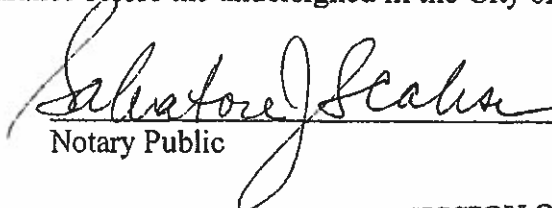
STATE OF ~~NEW YORK~~ <sup>Massachusetts</sup> )  
 )SS.:  
COUNTY OF ~~Nassau~~ <sup>Barnstable</sup> )

On the 8th day of April in the year 2001, before me, the undersigned, personally appeared LINDA C. TRUMP, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the ~~City~~ <sup>Town</sup> of Provincetown, State of Massachusetts.

  
Notary Public

STATE OF CONNECTICUT )  
 )SS.:  
 COUNTY OF FAIRFIELD )

On the 9<sup>th</sup> day of April in the year 2001 before me, the undersigned, personally appeared LISA TRUMP, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she executed the same in her capacity(ies), and that by her signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of State of Connecticut.

  
 Notary Public

COMMISSION OF DEEDS  
 OFFICIAL SEAL  
 STATE OF CONN.  
 COUNTY OF FAIRFIELD  
 SALVATORE J. SCALISI  
 EXP. AUGUST 17, 2001

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

----- X  
Probate Proceeding, Will of :  
Index No. 3949/1999  
FRED C. TRUMP :  
a/k/a FREDERICK CHRIST TRUMP, :  
Deceased. :  
: :  
: :  
----- X

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR  
PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER**

HARDER LLP  
100 Park Avenue, Sixteenth Floor  
New York, New York 10017  
(212) 799-1400

KILEY, KILEY & KILEY, PLLC  
3000 Marcus Avenue  
Suite 3W07  
Lake Success, NY 11042  
(516) 466-7900

*Attorneys for Petitioner*

## PRELIMINARY STATEMENT

In this action, Petitioner Robert S. Trump and his niece, Mary L. Trump, were parties to a 2001 written settlement agreement (settling *Will of Fred C. Trump*, a will contest proceeding which was filed in the Queens County Surrogate's Court) which included a confidentiality stipulation. Mary Trump agreed that she would not publish a book regarding her relationship with Robert Trump or two other relatives: her aunt, Judge Maryanne Trump Barry, or her uncle, President Donald Trump, without first receiving consent from **all three of them**.

On or about June 15, 2020, Simon & Schuster, Inc. announced that it would be publishing a "tell-all" book written by Mary Trump in which she describes her personal experience growing up in the Trump family and analyzes how events that she personally observed in that family allegedly explained the actions of President Trump. Even from the descriptions of the book as set forth in the press releases and publicity issued by Simon & Schuster, it is clear that the book contains descriptions or accounts of Mary Trump's relationship with her relatives that are prohibited by the settlement agreement.

At first, release of the book was set for August 11, 2020, but was later moved up to July 28, 2020. Mary Trump never obtained Robert Trump's consent before writing this book.

The settlement agreement contains broad provisions in which Mary Trump agreed to the entry of a temporary and/or permanent injunction in the event of a breach, and waiving the defense that there is an adequate remedy at law. Independent of her waiver, there is not an adequate remedy at law, because no award of monetary damages can ameliorate the loss that will be suffered if Mary Trump is permitted to violate the settlement agreement and publish accounts of her relationship with her uncles and aunt without their consent. Accordingly, this situation requires entry of a preliminary injunction. The preliminary injunction should bind those acting

on Mary Trump's behalf or in concert with her to publish the book, which in this case would include Simon & Schuster.

### **STATEMENT OF FACTS**

Petitioner Robert Trump is the son of Fredrick Christ Trump ("Fred Trump"), and Respondent Mary Trump is Fred Trump's granddaughter. Fred Trump died on June 25, 1999. **Exhibit A** at 3. He was domiciled in Queens County at the time of his death, and accordingly, his will was probated in this Court. *Id.* Fred's surviving spouse, Mary Anne Trump, died on August 7, 2000. *Id.* at 4 Fred Trump's and Mary Anne Trump's wills were submitted for probate in this Court by their sons Robert Trump and Donald Trump and daughter Maryanne Trump Barry (collectively, the "Proponents"). *Id.* at 3-4.

Mary Trump, along with her brother Fred C. Trump III ("Objectors"), submitted objections to the wills of Fred and Mary Anne Trump in this Court, and along with other members of the family, also filed suit in Nassau County against Fred Trump's estate. *Id.* at 3-5. These claims were vigorously litigated. *Id.* Discovery was conducted in the will contest proceedings pursuant to SCPA § 1404. *Id.* at 4. There also was extensive and costly discovery and motion practice in the Nassau County action. *Id.* at 4-5.

On April 10, 2001, the Proponents, including Robert Trump, and the objecting parties, including Mary Trump, entered into a global Settlement Agreement—settling all of the then-pending legal actions among them. **Exhibit A.**

The Settlement Agreement provides "WHEREAS, the parties hereto wish to avoid the uncertainty, further expense and delay incident to protracted litigation and believe it is in the best interest of all concerned that the controversies raised by these proceedings be compromised and settled, on a 'global basis' in order to resolve all their differences". *Id.* at 5.

The parties to the Settlement Agreement agreed to join in a motion to seal the court records in the court cases they were settling. *Id.* ¶ 1.

In the Settlement Agreement, Respondent Mary Trump agreed to not “directly or indirectly publish or cause to be published any diary, memoir, letter, story, photograph, interview, article, essay, account, or description or depiction of any kind whatsoever, whether fictionalized or not, concerning their litigation or relationship with the [Proponents Robert Trump, Maryanne Trump Barry and Donald Trump]... or assist or provide information to others in connection therewith”. *Id.* ¶2. The only exception to this obligation is if consents are obtained from Robert Trump, Maryanne Trump Barry **and** Donald Trump, as well as officers and directors of two companies named in the Settlement Agreement. *Id.*

The Settlement Agreement continues: “As used in the preceding sentence, the terms ‘publish’ and ‘publication’ shall be deemed to include the presentation or reproduction of written, verbal or visual material in any communication medium, including, without limitation, books....” *Id.*

The Settlement Agreement continues: “Any violation of the terms of this [confidentiality clause] shall constitute a material breach of this agreement.” *Id.*

It further provides: “In the event such breach occurs, [Objectors, including Mary Trump], as well as their ‘counsel’, hereby consent to the granting of a temporary or permanent injunction against them (or against any agent acting in their behalf) by any court of competent jurisdiction prohibiting them (or their agent) from violating the terms of this Paragraph.” *Id.*

The Settlement Agreement also provides: “In any proceeding for any injunction and upon any motion for a temporary or permanent injunction, [Objectors] and their ‘counsel’ agree that their ability to answer in damages shall not be a bar or imposed as a defense to the granting

of such temporary or permanent injunction. [Objectors] and their ‘counsel’ further agree that [Proponents] will not have an adequate remedy at law in the event of any breach by [Objectors] hereunder and [Proponents] will suffer irreparable damage and injury in event of any such breach.” *Id.*

Mary Trump received good and valuable and adequate consideration for entering into the Settlement Agreement, including a substantial financial settlement, mutual releases, and a confidentiality stipulation to her benefit. **Exhibit A.**

On or about June 15, 2020, Simon & Schuster announced publicly that it intended to publish a new book by Mary Trump entitled *Too Much and Never Enough: How My Family Created the World's Most Dangerous Man* (the “Book”). Lachlan Cartwright, Revealed: The Family Member Who Turned on Trump, *The Daily Beast* (Jun. 15, 2020) (at <https://www.thedailybeast.com/mary-trump-donald-trumps-niece-is-writing-a-tell-all-book-that-details-how-she-leaked-tax-papers-to-nyt>). The publication date was initially set for August 11, 2020, but has since been advanced to July 28, 2020. Joe Pompeo, “She Feels Very Determined: How Mary Trump’s Coming Bombshell Was Built,” *Vanity Fair* (Jun. 16, 2020) (at <https://www.vanityfair.com/news/2020/06/how-mary-trumps-coming-bombshell-was-built>). The cover of the Book, which has been distributed by Simon & Schuster, features a black and white photograph of a young Donald Trump. (See Wikipedia, “Too Much and Never Enough” (at [https://en.wikipedia.org/wiki/Too\\_Much\\_and\\_Never\\_Enough](https://en.wikipedia.org/wiki/Too_Much_and_Never_Enough)).) Mary Trump’s photograph or likeness is not on the cover of the Book. *Id.*

Simon & Schuster announced the imminent publication of the Book for the first time in an article in *The Daily Beast* published on or about June 15, 2020. Lachlan Cartwright, Revealed: The Family Member Who Turned on Trump, *The Daily Beast* (Jun. 15, 2020) (at

<https://www.thedailybeast.com/mary-trump-donald-trumps-niece-is-writing-a-tell-all-book-that-details-how-she-leaked-tax-papers-to-nyt>). The *Daily Beast* story states that the Book will state that Mary Trump “played a critical role helping The New York Times print startling revelations about Trump’s taxes, including how he was involved in ‘fraudulent’ tax schemes and had received more than \$400 million in today’s dollars from his father’s real estate empire” and that she supplied “highly confidential family financial documentation” to the *Times*. *Id.* The *Beast* also reported that “Mary plans to include conversations with Trump’s sister, retired federal judge Maryanne Trump Barry, that contain intimate and damning thoughts about her brother” and that the Book would include “allegations that Donald and Fred Trump Sr. contributed to” the death of her father, Fred Trump Jr.

Pages have appeared on the *amazon.com* and *barnesandnoble.com* websites promoting the Book, and describing its contents as “[i]n this revelatory, authoritative portrait of Donald J. Trump and the toxic family that made him, Mary L. Trump, a trained clinical psychologist and Donald’s only niece, shines a bright light on the dark history of their family”. See

[https://www.amazon.com/Too-Much-Never-Enough-Dangerous/dp/1982141468/ref=sr\\_1\\_2?dchild=1&keywords=mary+trump&qid=1592608929&sr=8-2](https://www.amazon.com/Too-Much-Never-Enough-Dangerous/dp/1982141468/ref=sr_1_2?dchild=1&keywords=mary+trump&qid=1592608929&sr=8-2) ; <https://www.barnesandnoble.com/w/too-much-and-never-enough-mary-l-trump-phd/1137181290?ean=9781982141462>.

Robert Trump never consented to the publication of the Book. *Trump Affidavit* ¶ 5.



## ARGUMENT

### **A. Standards for Preliminary Injunctions**

“A preliminary injunction may be granted in any action where it appears that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff’s rights respecting the subject of the action, and tending to render the judgment ineffectual, or in any action where the plaintiff has demanded and would be entitled to a judgment restraining the defendant from the commission or continuance of an act, which, if committed or continued during the pendency of the action, would produce injury to the plaintiff.” CPLR § 6301.

“The party seeking a preliminary injunction must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor.” *Nobu Next Door, LLC v. Fine Arts Housing, Inc.*, 4 N.Y.3d 839 (2005).

### **B. Robert Trump Is Likely to Succeed on the Merits.**

“In order to obtain the remedy of specific performance, the complaint must show: (1) the making of the contract and its terms, including a description of the subject matter; (2) that the plaintiff is ready, willing, and able to perform the contract and has fulfilled all of the plaintiff’s duties to date; (3) that it is within defendant’s power to perform (as, in the case of specific performance of a real estate purchase agreement, a plaintiff should allege that defendant held title to the realty); and (4) that there is no adequate remedy at law (an element that need not be pled where the contract is for the sale of real property).” *Lezell v. Forde*, 26 Misc.3d 435, 441 (Supr. Ct. Kings Cty. 2009) (emphasis removed).

Robert Trump is likely to succeed on the merits on all four of these elements. First, the 2001 Settlement Agreement is valid and binding on the parties, including Mary Trump. It

specifically provides that Mary Trump is not allowed to publish any book containing a description or account of her relationship with Robert Trump, or Donald Trump, or Maryanne Trump Barry.

The Petition further pleads that Robert Trump has satisfied all of his obligations under the Settlement Agreement and is ready, willing and able to continue performing them, and that they are within his power to perform.

Finally, there is no adequate remedy at law, because the publication will cause Robert Trump irreparable harm, as set forth *infra*.

**C. Robert Trump Will Suffer Irreparable Harm if Publication Is Not Enjoined.**

Robert Trump will suffer irreparable harm for several reasons. First, in the Settlement Agreement, Mary Trump agreed that in the event of breach of the confidentiality stipulation, Robert Trump would suffer irreparable harm. **Exhibit A ¶ 2** (“[Objectors] and their ‘counsel’ further agree that [Proponents] will not have an adequate remedy at law in the event of any breach by [Objectors] hereunder and [Proponents] will suffer irreparable damage and injury in event of any such breach.”).

The Settlement Agreement’s language is consistent with New York law, which holds that where the confidentiality of information is lost, irreparable harm is suffered. *Lumex, Inc. v. Highsmith*, 919 F. Supp. 624, 628 (E.D.N.Y. 1996); *Willis of New York v. DeFelice*, 299 A.D.2d 240, 242-43 (1st Dep’t 2002).

Here, the Settlement Agreement specifically afforded Robert Trump an approval right over Mary Trump’s publication of a memoir or book containing descriptions or accounts of her relationship with the Proponents (Robert Trump, Maryanne Trump Barry and Donald Trump). This is a valuable right that allows Robert Trump to prevent Mary Trump from publishing

material that could harm him or them by divulging private or disparaging information about their relationship to the public. It was part of a global settlement agreement that imposed similar restrictions on Robert Trump with respect to his relationship with Mary Trump. Thus, Mary Trump can restrain any memoir or book by Robert Trump if it seeks to divulge private or disparaging information to the public about his relationship with Mary Trump. Mary Trump agreed that Robert Trump could obtain temporary or permanent injunctive relief if she violated the provision (just as she can obtain the same relief in the event of a breach by Robert Trump or the other Proponents).

Under these circumstances, Robert Trump will suffer irreparable harm if the injunction does not issue.

**D. The Balance of Equities Weighs In Robert Trump’s Favor.**

As noted above, if publication occurs, Robert Trump’s valuable right to prohibit Mary Trump from publishing descriptions and accounts of Mary Trump’s relationship with him, along with Judge Barry and President Trump, will be lost. On the other hand, Mary Trump would “lose” something she was never entitled to do in the first place: publish a memoir of her relationship with any of the Proponents. Mary Trump may still, of course, publish any book that does not contain any such information, or publicly state any opinions she may hold on political issues, so long as she does not discuss her relationship with Proponents when doing so. *See UAH-Mayfair Management Group v. Clark*, 177 A.D.3d 572, 573 (1st Dep’t 2019) (balance of equities favored plaintiff where defendant had attempted to interfere with plaintiff’s relationships with former customers; injunction would allow defendant to continue practicing his profession so long as he did not interfere with those relationships).

Thus, the balance of equities favors Robert Trump, and Robert Trump is entitled to a preliminary injunction.

**E. Simon & Schuster, the Publisher, Should Be Properly Enjoined.**

According to the Settlement Agreement, Mary Trump must not only refrain from publishing descriptions or accounts of her relationship with the Proponents, but she also must not cause any agent to do so on her behalf, and she consents to an injunction against any such agent: “In the event such breach occurs, [Objectors], as well as their ‘counsel’, hereby consent to the granting of a temporary or permanent injunction against them (or against any agent acting in their behalf) by any court of competent jurisdiction prohibiting them (or their agent) from violating the terms of this Paragraph.” **Exhibit A ¶ 2.** Additionally, under New York law, injunctions may extend to those acting “in concert” with a party bound to the injunction: “A person may be bound by the terms of an injunction even though not a party to the action in which it is granted if he has notice or knowledge of the order and is within the class of persons whose conduct it is intended to be restrained or if he acts in concert with a person who is in that class....” *Fordham University v. King*, 63 Misc. 2d 611, 612 (Supr. Ct. Bronx Cty. 1970).

Simon & Schuster is properly bound to an injunction in this case under either or both of these theories. Simon & Schuster is acting on Mary Trump’s behalf, and in concert with her, in causing the Book to be published. An effective injunction must extend to the publisher who is acting on Mary Trump’s behalf to disclose the information that is prohibited from disclosure under the Settlement Agreement.

**CONCLUSION**

For the foregoing reasons, a preliminary injunction should issue prohibiting Mary L. Trump and Simon & Schuster, Inc. from publishing any book containing descriptions or accounts of Mary Trump's relationship with Robert Trump, Donald Trump, or Maryanne Trump Barry.

Dated: New York, New York  
June 23, 2020

HARDER LLP

By: 

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*Attorneys for Petitioner*

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

----- x  
Probate Proceeding, Will of : Index No. 3949/1999

FRED C. TRUMP :  
a/k/a FREDERICK CHRIST TRUMP, : **EMERGENCY AFFIRMATION**  
Deceased. : **OF CHARLES J. HARDER**

----- x  
CHARLES J. HARDER, an attorney licensed to practice before the courts of this State,  
hereby affirms the following under penalty of perjury:

1. I am an active member of the New York Bar and counsel for Petitioner Robert S. Trump in this action.
2. Petitioner is moving for a temporary restraining order against Mary L. Trump and Simon & Schuster, Inc. who have announced their intention to publish a book that violates the terms of a 2001 settlement agreement executed by her.
3. We learned of the intentions of Mary L. Trump and Simon & Schuster, Inc. on or about June 16, 2020, and promptly brought this matter to this Court's attention.
4. This matter must be heard forthwith, as the release date for the book has been set for July 28, 2020, and the nature of the book publishing industry is such that copies of books ship to bookstores, and review copies are distributed, in advance of publication.
5. On June 22, 2020, I e-mailed counsel for Mary Trump, and the legal department of Simon & Schuster, and gave notice of this proceeding. A true copy of this e-mail is attached here as **Exhibit B**.

6. No prior application for the relief requested herein has been made.

Dated: New York, New York  
June 23, 2020

  
\_\_\_\_\_  
CHARLES J. HARDER

# **Exhibit B**



## Charles Harder

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**From:** Charles Harder  
**Sent:** Monday, June 22, 2020 2:43 PM  
**To:** jbarnosky@farrellfritz.com, veronica.jordan@simonandschuster.com  
**Cc:** Jim Kiley - Kiley, Kiley & Kiley PLLC (JKiley@kileylawfirm.com); Dilan Esper  
**Subject:** Ex parte notice: Robert Trump - Mary Trump, S&S

**Follow Up Flag:** Copied to Worldox (Client Documents\1221\032\00109272.MSG)

John J. Barnosky, Esq.  
Farrell Fritz, P.C.

Veronica Jordan, Esq.  
EVP and General Counsel  
Simon & Schuster

Dear Counsel:

This law firm is litigation counsel for Robert S. Trump. We are informed that you are counsel for Mary L. Trump. We also are informed that Mary L. Trump and Simon & Schuster intend to publish *Too Much and Never Enough: How My Family Created the World's Most Dangerous Man*, which contains alleged descriptions and accounts of Mary Trump's relationship with members of her family, in violation of the Settlement Agreement dated April 10, 2001.

Accordingly, please take notice that Robert S. Trump intends to move forthwith for a temporary restraining order in the Surrogate's Court in Queens County. As a courtesy, we will transmit a copy of the papers to you as soon as they are filed this evening.

Sincerely,

Charles J. Harder, Esq.



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