IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR OKEECHOBEE COUNTY, FLORIDA
CIVIL DIVISION

PRESIDENT DONALD J. TRUMP,

Plaintiff,

v. CASE NO.: 22-CA-000246

ELIZABETH ALEXANDER, et al.

Defendants.
_____/

PLAINTIFF'S RESPONSE TO DEFENDANTS' OPPOSED MOTION TO TEMPORARILY STAY CIVIL ACTION GIVEN PLAINTIFF'S STATUS AS PRESIDENT OF THE UNITED STATES

Plaintiff, President Donald J. Trump ("Plaintiff"), by and through undersigned counsel, files his response to Defendants' Opposed Motion to Temporarily Stay Civil Action Given Plaintiff's Status as President of the United States ("Motion") and in support thereof states as follows:

Summary

Defendants again seek to wrongfully prevent President Trump, for the fourth time, from obtaining discovery and proceeding with this case by improperly asserting Presidential immunity against him as plaintiff.

That request is unlawful, and has no basis in the U.S. Constitution or the law of Florida. The Motion should be denied for, among others, two independent reasons:

First, Defendants have no standing to invoke the President's immunity from suit nor to complain about possible diversion of his energies. Under Article II of the Constitution, Presidential immunity resides with the President, not his adversaries in litigation. As a matter of settled

precedent and common sense, Defendants have no standing to assert an immunity that does not belong to them.

Second, even if the Defendants had standing, which they do not, their request would fail because Article II and the Supremacy Clause, as well as the U.S. Constitution overall protect the President as a defendant against a state court's exercise of compulsory jurisdiction. Those provisions do not, however, disable the President from filing suit as a plaintiff on the same terms as any other American. To the contrary, it would violate the Supremacy Clause to deny the President the same rights enjoyed by all other citizens merely because he is President. To in a cynical attempt to obscure the basic distinction between the President as plaintiff and the President as defendant, Defendants invoke the specter of possible counterclaims. The Defendants even try to insist that a "constitutional conflict" would necessarily arise if the Motion is denied. However, Defendants have not filed any counterclaims. In fact, the 19 nonresident Defendants in this case have so consistently and vehemently challenged this Court's personal jurisdiction over them (albeit unsuccessfully) that they included a footnote preserving their objections in the instant Motion. Under such circumstances, the Court should disregard this dreamt up scenario. However, even if they were to file such nonexistent claims, it would be the President's prerogative to then decide whether to assert immunity. Defendants' "reverse immunity" argument—based on hypothetical counterclaims—is entirely misplaced.

Defendants' request is nothing more than an inappropriate attempt to delay this case, avoid the disclosure of evidence supporting the allegations in the Amended Complaint demonstrating a years-long conspiracy between Defendants, and to prolong Defendants' defamation of President Trump. Because Defendants have no standing to advance their nonsensical reverse immunity argument, the Court can and should resolve the Motion without passing upon a sitting President's

immunity from suit in state court. If the Court does reach the immunity question, it should recognize that this immunity protects the President as defendant. It does not disable the President, as an American citizen, from proceeding as a plaintiff. The Motion should be denied.

Legal Argument

The threshold inquiry for this Court is whether Defendants have standing to seek a stay on the basis of presidential immunity. The answer is clearly no. Even if they did, Defendants' argument would fail because the immunity at issue protects the President, as a defendant, from the diversion and harassment of an unwanted lawsuit. It does not prohibit the President, as a plaintiff, from initiating or prosecuting civil litigation.

I. Defendants Lack Standing to Seek a Stay Based on an Article II Immunity.

The Court need not determine the existence, much less the scope, of the President's immunity from state-court litigation because Defendants lack standing to assert it on the President's behalf, much less against his wishes.

Article II, Section 1, Clause 1 of the United States Constitution, commonly referred to as the Vesting Clause, provides that "[t]he executive Power shall be vested in a President of the United States of America." U.S. Const., art II, § 1, cl. 1. Because the Vesting Clause bestows the executive power of the United States upon "a President," the powers and immunities flowing from it belong to that office. As the U.S. Supreme Court has affirmed, "[u]nder our Constitution, the executive Power—all of it—is vested in a President." *Seila Law LLC v. CFPB*, 591 U.S. 197, 203 (2020). Consequently, the immunities flowing from Article II belong to the President. They can be asserted by him and only on his consent. *See, e.g., United States v. Reynolds*, 345 U.S. 1, 7 (1953)(explaining that executive privilege "can neither be claimed nor waived" by a third party).

All immunities work this way. Under the Speech and Debate Clause of the U.S. Constitution, art. I, § 6, cl. 1, legislators enjoy immunity for statements made in the course of legislative proceedings. While legislators are entitled to voluntarily introduce evidence of their own legislative acts in personal litigation, no court has ever held that other private parties have standing to assert legislative immunity against those legislators. *See, e.g., United States v. Renzi*, 651 F.3d 1012, 1037 (9th Cir. 2011) (collecting cases). The same is true of state sovereign immunity, such immunity belongs to the state, and the state alone may decide whether and when to assert it. *See Alden v. Maine*, 527 U.S. 706, 737 (1999).

The President's immunity from state court litigation is no different. Defendants—private parties before this Court in their individual capacities—are barred from claiming a privilege or immunity derived from Article II.

Incorrectly concluding that Defendants have standing to invoke Presidential immunity in this case would be a perversion of a constitutional concept designed to protect the President, and would wrongly permit his opponents to use it to silence him and manipulate the public's perception of him. This is the precise harm the President has sufficiently pled. *Alexander v. Trump*, No. 4D2024-1983, 2025 WL 466641, at *2 (Fla. 4th DCA Feb. 12, 2025) (finding President Trump has "sufficiently pled that the defendants engaged in a conspiracy to defame him" by perpetuating the now-debunked Russia Collusion Hoax).

Unequivocally, Defendants do not have standing to override the President's judgment and invoke presidential immunity. It undoubtedly "can neither be claimed nor waived" by Defendants. *Reynolds*, 314 U.S. at 7. Because Defendants have no standing to assert an immunity that does not belong to them, the analysis cannot go further. The Motion must be denied.

II. Even if Defendants Had Standing, Which They Do Not, The President's Immunity Has No Application to the Claims He Brings as Plaintiff.

Even if Defendants had standing to invoke the President's immunity against him, which they do not, their Motion would still fail on its merits. According to Defendants, the immunity arguments raised by the President as a defendant in other cases should apply equally here, and thereby disable him from proceeding as a plaintiff. Defendants badly misconstrue the President's immunity from state civil litigation. Properly understood, that immunity protects the President as defendant; it does not foreclose him from proceeding as a plaintiff.

As Defendants acknowledge, litigation against a sitting President in state court raises unique and profound questions under the Supremacy Clause, distinct from those involving other public officials. Motion at 1. The reason is simple: the Supremacy Clause and Article II of the Constitution prohibit state courts from interfering with the operations of the Executive Branch. *McCulloch v. Maryland,* 17 U.S. (4 Wheat.) 316 (1819). The President alone embodies the Executive Branch. *Mississippi v. Johnson*, 71 U.S. 475, 500 (1867) ("The President is the executive department."). State lawsuits against the President as defendant are prohibited because they risk harassing and diverting the President from his official duties. *See* Opening Br. in Supp. of Defs.' Mot. to Dismiss, or Alternatively, to Stay on the Basis of Temporary Presidential Immunity at 12-19, *United Atlantic Ventures v. TMTG Sub Inc.*, No. 2024-0184-MTZ (Del. Ch. Jan. 24, 2025) ("TMTG Brief").

These risks of diversion and harassment exist whenever the President is sued in state court. TMTG Brief at 19-37. During his first term, President Trump was forced to defend against more lawsuits than any President in American history, and indeed more than all his predecessors combined. Those lawsuits tried to divert the President away from his official duties, compelling him to engage with state courts whose jurisdiction he did not accept. That "direct control by [the]

state court" over the President as Defendant against his consent violates both the Supremacy Clause and Article II, because it risks state interference with his official responsibilities. *Clinton,* 520 U.S. at 691 n.13.

These same risks of interference clearly do not apply to claims brought by the President as plaintiff. When the President files suit, he retains complete control over the nature of the claims he seeks to litigate. *See Royal Canin U.S.A., Inc., v. Wullschleger*, 604 U.S. 22, 35 (2024) ("The plaintiff is the master of the complaint, and therefore controls much about [his] suit.") (cleaned up). Whether a lawsuit was initiated prior to his presidency or during his term, upon taking office the President—and only the President—is equipped to make a determination about the amount of his time a suit will require and whether it will divert him from his official business. In cases like these, state courts do not run the risk of interfering with the federal government because the President has brought, or continued to prosecute, the claim on the understanding that such claims are consistent with—and may even further—his official responsibilities.

To be sure, the President's assessment may change over the course of the litigation. As plaintiff, like every other plaintiff, the President retains the right to dismiss the case or seek a stay. *See Pino v. Bank of New York*, 121 So.3d 23, 31 (Fla. 2013) ("Since the 1960s, Florida's voluntary dismissal rule has provided plaintiffs with a very broad right and time period within which to dismiss lawsuits."). For all of these reasons, Article II and the Supremacy Clause protect the President against unwanted lawsuits; they do not disable him from bringing suit.

Defendants' contrary position would turn these settled constitutional principles completely upside down. To reiterate, the President's decision to file suit or proceed with claims filed prior to his term reflects his considered judgment that doing so likely will not interfere with—and indeed may even advance—the objectives and operations of the Executive Branch, which he embodies.

Staying this case would subvert the President's prerogatives, as it would allow Defendants' lies to linger over President Trump's second term in the same manner as when they were originally peddled by *The New York Times* and *The Washington Post* during his first term, when they were wrongfully rewarded with, and amplified by, Pulitzer Prizes. Preventing the President from continuing to clear his name would perpetuate the egregiously false Russia Collusion Hoax. That gets Article II exactly backward.

Defendants' position would also subvert the Supremacy Clause. That clause operates as a protective shield, insulating the Presidency from the risks of harassment and diversion that arise whenever a President is sued as defendant. Yet, Defendants invoke the Supremacy Clause as a sword against the President, in an attempt to disable him from prosecuting a private civil lawsuit on the same terms as any other American, solely because of his status as President. No authority supports that contention, and both common sense and settled precedent foreclose this cynical maneuver. *See Washington v. United States*, 460 U.S. 536, 544-545 (1983) (the Supremacy Clause prohibits States from "discriminat[ing] against the Federal Government [by] treat[ing] someone else better than it treats" federal government officials); *United States v. Fresno County*, 429 U.S. 452, 706 (1977) (same). In short, even if Defendants had standing to assert the President's immunity from state civil litigation against him, which they do not, that immunity would not foreclose the President from proceeding as Plaintiff in this matter. Defendants offer two primary arguments in support of their "reverse immunity." Neither has merit.

First, Defendants claim that permitting this case to proceed "threatens to wrongly deprive Defendants of the right to assert potential counterclaims." Motion at 12. This argument is based on nothing but conjecture, as Defendants fail to identify any actual or even potential counterclaims against the President. More importantly, should Defendants raise counterclaims, it would then fall

to the President to determine the appropriate course of action, including whether to assert immunity with respect to those claims or to take any other action he deems appropriate. Contrary to Defendants' arguments, there is nothing unfair or inconsistent in recognizing that the President, as the head of the Executive Branch, may invoke immunity while private litigants may not.

Second, Defendants claim a stay is required until the President leaves office because this case involves "official acts." Motion at 8-11. But their argument erroneously conflates two distinct immunities. "Official acts" immunity is a substantive defense that applies regardless of whether the President is in office at the time of litigation. *See Trump v. United States*, 603 U.S. 593, 631-32 (2024) (applying official acts immunity to President Trump following his first term); *Nixon v. Fitzgerald*, 457 U.S. 731, 749–756 (1982) (similar). By contrast, the kind of immunity improperly asserted by Defendants is designed to protect a sitting President from the unique burdens of defending lawsuits during his tenure. Defendants' efforts to invoke official-acts immunity is thus analytically confused. Whether the case is litigated today or in four years from now, this Court would need to confront any distinct questions raised by official-acts immunity. Defendants are misusing that doctrine to manufacture a justification for a stay where none exists. The Motion must be denied.

Conclusion

Defendants lack standing to assert Article II immunity that belongs to the President and is his to assert. In any event, such immunity exists to prevent the unwanted burdens and harassment to a President from defending against civil litigation, not to prohibit him from voluntarily initiating or continuing claims as plaintiff. Any issues that may arise necessitating consideration of the President's schedule will be raised by him in due course, giving the Court ample opportunity to avoid unnecessary conflicts with the Nation's business while keeping the progress of this action

going. The stay demanded by Defendants is unprecedented, unnecessary, and unlawful. The Motion must be denied.

WHEREFORE Plaintiff, President Donald J. Trump, requests this Court deny Defendants' Opposed Motion to Temporarily Stay Civil Action Given Plaintiff's Status as President of the United States, and grant all other relief as is necessary and proper.

DATED: February 27, 2025

Respectfully submitted,

/s/ R. Quincy Bird
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 27, 2025, the foregoing was filed electronically using the Florida Courts E-Filing Portal and will be electronically served upon all counsel of record.

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