

June 26, 2020

VIA ELECTRONIC FILING & EMAILHonorable Hal B. Greenwald
New York State Supreme Court
Dutchess County Supreme Court
10 Market Street
Poughkeepsie, New York 12601Re: Robert S. Trump v. Mary L. Trump, et al., Index No. 2020-51585

Dear Justice Greenwald:

We represent Defendant Simon & Schuster, Inc. in the above-referenced action and write in regards to Plaintiff's Emergency Order to Show Cause and Plaintiff's counsel's letter request that the Court schedule a conference for the Court to hear his emergency application for what is plainly an unconstitutional prior restraint.

Plaintiff Robert Trump has asked this Court to issue an order enjoining Simon & Schuster from publishing the book, *Too Much and Never Enough: How My Family Created the World's Most Dangerous Man* by Mary Trump, the niece of Mr. Trump and President Donald J. Trump. Regardless of Mr. Trump's efforts to make this seem like a small dispute about the breach of a confidentiality provision in a Settlement Agreement – to which Simon & Schuster is not a party – the relief he requests is among the most extraordinary remedies a litigant can request under the law, a prior restraint of speech on a matter of public interest. Such a restraint is the “most serious and the least tolerable infringement on First Amendment rights,” *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976), in the American republic. To the extent Mr. Trump claims that the issuance of a temporary restraining order will merely preserve the status quo, “[w]here the freedom of the press is concerned . . . the status quo is to ‘publish news promptly that editors decide to publish.’” *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219, 226 (6th Cir. 1996). “A restraining order disturbs the status quo” in the First Amendment context *Id.*

We therefore request that this Court allow Defendant Simon & Schuster the opportunity to brief this issue before any order to show cause is signed or any other provisional relief entered and respectfully ask that the Court set a briefing schedule that it deems appropriate. We stand ready to be heard on the motion at the Court's convenience thereafter.

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Simon & Schuster reserves all defenses and objections.

Respectfully submitted,

Davis Wright Tremaine LLP



Elizabeth A. McNamara

cc: Anne Champion, Esq.
Charles J. Harder, Esq.
James D. Kiley, Esq.