

July 6, 2020

VIA ELECTRONIC FILING AND EMAIL

Hon. Hal B. Greenwald
Supreme Court of the State of New York
10 Market Street
Poughkeepsie, New York 12601

Re: Temporary Restraining Order in *Trump v. Trump*, Index No. 2020-51585

Dear Justice Greenwald:

I write as counsel for Mary L. Trump (“Ms. Trump”) in regard to the temporary restraining order (“TRO”) issued by this Court on June 30, 2020. *See* Dkt. 19. This Court issued the TRO without the benefit of briefing from Defendants, and Justice Scheinkman of the Appellate Division has already lifted the TRO as to Simon & Schuster. Dkt. 55 (2d Dep’t July 1, 2020). Now that the Court has had the benefit of Defendants’ oppositions, Ms. Trump respectfully requests, as Justice Scheinkman directed in his July 1, 2020 opinion, that that TRO “be reassessed by the Supreme Court in view of the defendants’ answering papers.” Dkt. 55 at 8; *see* Dkt. 56 (Affirmation of A. Champion); Dkt. 79 (Affidavit of M. Trump); Dkt. 80 (Simon & Schuster’s Amended Memorandum of Law); Dkt. 81 (Amended Affidavit of J. Karp); Dkt. 82 (Amended Affirmation of E. McNamara); Dkt. 104 (M. Trump’s Memorandum of Law). As the opposition papers show, Plaintiff has failed to show a likelihood of success on the merits of his claim and has not made any showing of harm justifying the banning of the Book. *See* CPLR 6301 (a TRO may only be granted where plaintiff shows that “immediate and irreparable injury, loss or damage will result unless the defendant is restrained”). In contrast, Ms. Trump is continually harmed by the TRO, as it is well-established that “[t]he loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury” to the speaker. *N.Y. Progress & Protection PAC v. Walsh*, 733 F.3d 483, 486 (2d Cir. 2013) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Moreover, a TRO against Ms. Trump cannot halt publication of the book, which is scheduled for release on July 14, 2020. For these reasons and those set forth in Defendants’ oppositions, Ms. Trump requests that this Court immediately lift the TRO applicable to her. Ms. Trump also respectfully reiterates her request for oral argument on Plaintiff’s pending motion for a preliminary injunction.

Respectfully submitted,

s/ Theodore J. Boutrous, Jr.
Theodore J. Boutrous, Jr.

CC (via ECF and email): Charles Harder, Esq.; James D. Kiley, Esq.; Kiersten Schramek, Esq.; Robert A. Weis, Esq.; Elizabeth McNamara, Esq.; Kate Bolger, Esq.