



November 7, 2025

The Honorable Joel M. Cohen, J.S.C.
Supreme Court of the State of New York
New York County, Commercial Division
60 Centre Street
New York, New York 10007

Re: *Simpson et al. v. Chassen et al.*, Index #158055/2023
Conference re: Scheduling Order (Comm. Div. R. 14)

Dear Justice Cohen:

Undersigned counsel, on behalf of Plaintiffs in this action, writes to respond briefly to the joint letter and proposed Scheduling Order of 608941 NJ Inc. (“Oak”), Jared Chassen, and Arch Real Estate Holdings LLC (“AREH”) (collectively, the “Oak Parties”).

Plaintiffs’ proposed Scheduling Order was submitted to counsel for the Oak Parties on Monday, November 3, 2025, following a meet and confer among counsel on that day. It notes at the outset that, “disputes among the parties remain concerning: (a) whether any prior demands are outstanding; (b) the scope and sequence of discovery; (c) required electronically stored information (ESI) preservation and protocols, (d) the identification of deponents and timing of their depositions, and (e) a reasonable Note of Issue date.” No response was received until today, nor was any attempt made to reconcile the fundamental differences in their proposals.

Oak itself has failed to put forth any answer, yet it reserves the right to file a third successive motion to dismiss more than two years after intervening in this case. Fundamental discovery remains outstanding, no depositions have been taken of the key representatives of the opposing parties, despite prior deposition notices, including Oak’s main principals, Kevin and Michael Wiener, former Chief Financial Officer Frank van Biesen, Defendant Jared Chassen, or Jorge Vidal, whose LinkedIn profile indicates that he has been in charge of “Asset Management and Acquisitions” at the Arch Companies since May 2023,¹ around the same time of its collapse.

Most alarmingly, the Oak Parties fail to commit to any protocols for the preservation of electronically stored information (“ESI”), in violation of State and Federal mandates.²

¹ Jorge Vidal, Acquisitions and Asset Management, Arch Companies, [LinkedIn Profile](#).

² See, e.g., Hon. Joel M. Cohen, J.S.C., *Part 3 – Practices and Procedures* (rev. Oct. 14, 2025) I.A (generally incorporating 22 NYCRR § 202.70); 22 NYCRR § 202.20-j (“Parties and nonparties should adhere to the [ESI Guidelines] set forth in Appendix A.”); *id.* § 202.70, Comm. Div. R. 11-c (incorporating ESI Guidelines); *id.* § 202.70 [App. A](#), ESI Guidelines pt. III.A (“Counsel should take an active role in assisting its client in the preservation

There is no basis for the Oak Parties to disavow their evidentiary preservation and discovery obligations, nor is there any reason why the exchange of such information cannot occur within the next five months before Note of Issue is to be filed. Discovery is a fundamental part of this litigation, and it is essential to the disposition of disputed issues of material fact – among them, relating to corporate control, accounting for assets, and the Oak Parties’ fiduciary obligations to JJ Arch LLC under this Court’s Orders,³ for its benefit and that of its estate.

Undersigned counsel has conferred with opposing counsel promptly and in a good faith effort to resolve the issues raised in the letter, however the parties are at an impasse. Accordingly, a conference regarding the parties’ proposals is respectfully requested pursuant to Commercial Division Rule 14 and Part VII.B of Your Honor’s *Practices and Procedures*.⁴

Respectfully submitted,


Benjamin Robert Rajotte, Esq.

Attorneys for Plaintiffs

cc: Counsel of record via NYSCEF

and collection of ESI.”), III.C (“A party should take reasonable steps to identify and to preserve relevant data in its possession, custody, or control once litigation is pending or is reasonably anticipated.”), V.D (ESI protocols “apply to custodians whose ESI may reasonably be expected to contain evidence that is material to the dispute”).

³ See, e.g., NYSCEF Dkt. #[418](#), [1365](#). Remarkably, opposing counsel disclaims any obligation to disclose even any of the information relating to Jeffrey Simpson’s or Jared Chassen’s AREH email accounts, despite being order to preserve the same, and despite the fact that Mr. Chassen testified that his account remained active. *Id.* #[2052](#), Hrg. Tr. (Oct. 10, 2025) at 60:26-61:3.

⁴ See also 22 NYCRR § 202.12(c) (“If the parties are unable to reach a stipulation governing electronic discovery, the court may direct a conference on the subject.”).