

O L S H A N

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November 7, 2025

BY ECF

Hon. Jeannette A. Vargas
United States District Court
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *In re JJ Arch LLC*, Case #24-08649 (JAV)/Appellee Arch Real Estate Holding LLC's Response to Appellant's November 7, 2025 Letter

Dear Judge Vargas:

This office is counsel to Arch Real Estate Holdings LLC (“AREH”), who together with Jared Chassen are the appellees concerning the above referenced bankruptcy appeal. AREH writes to respond to Appellant JJ Arch LLC’s November 7, 2025 letter to the Court [ECF No. 54] (the “Appellant Letter”).

The Appellant Letter is the latest entry in Appellant’s and Jeffrey Simpson’s relentless campaign of frivolous conduct, which conduct includes the underlying appeal. The Appellant Letter must be stricken.

The Appellant Letter requests that this Court take judicial notice of an alleged default in responding to Appellant’s purported filing of an October 14, 2025 motion before the Bankruptcy Court seeking the Bankruptcy Court’s indicative ruling under Rule 60(b) of the Federal Rules of Civil Procedure and of additional documents that apparently were first filed with the Bankruptcy Court this morning.

The underlying motion was never properly lodged, would be untimely were it to be, and, on the merits, frivolous in that it alleges new issues that, even assuming the allegations as true (and they are not), are wholly irrelevant to the Bankruptcy Court’s multi-pronged and well-reasoned opinion that dismissal was warranted on account of findings of substantial or continuing loss, no reasonable likelihood of rehabilitation, and gross mismanagement of the estate. 11 U.S.C. § 1112.

Appellant filed its reply on August 15, 2025. It is not entitled to a sur-reply, disguised or otherwise, which is what the Appellant Letter is. The Bankruptcy Court has not ruled on the underlying motion and therefore there is no indicative ruling before this Court and the contents of the Appellant Letter and its exhibits are not part of the record on appeal.

The Appellant Letter is premised upon the motion supposedly being unopposed, citing a “Notice of No Opposition” filed today with the Bankruptcy Court. As an initial matter, sitting as

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an appellate court, this Court is not equipped to surmise how the Bankruptcy Court might have ruled had the motion been properly before it. Even were the motion unopposed, which is either Appellant's misrepresentation or misapprehension, that does not mean that the Bankruptcy Court would see fit to alter its opinion dismissing the chapter 11 case. *See Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 355-56 (5th Cir. 1993) “[t]he fact that [the] Motion for Reconsideration was unopposed when decided is inapt . . . the court is not required to grant every unopposed motion.”; *Cf D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95, 110 (2d Cir. 2006) (“Even unopposed motions for summary judgment must fail where the undisputed facts fail to show that the moving party is entitled to judgment as a matter of law.” (citation and internal quotation marks omitted)).

The additional fatal flaw with this assertion is that the reason why the motion is “unopposed” is because it was never properly filed and no opposition was ever due. As set forth below, the Local Bankruptcy Rules of the Southern District of New York require that, *prior to filing a motion*, a movant first obtain a hearing date from chambers, and then *notice the motion* upon potentially interested parties (which as a matter of practice is achieved through a “Notice of Motion”), which notices provides for an *opposition due 7 days prior to the return date obtained by chambers*.

Specifically the Local Bankruptcy Rules provide in pertinent part:

Rule 5070-1 OBTAINING A RETURN DATE

Unless the Court orders otherwise, prior to serving a motion, cross-motion, or application, the moving party or applicant must obtain a return date from the assigned Judge’s chambers.

Rule 9006-1 TIME FOR SERVICE AND FILING OF MOTIONS AND ANSWERING PAPERS

(c) *All Other Motions* [i.e., except for discovery motions and motions governed by Rule 2002 of the Federal Rules of Bankruptcy Procedure]. Except as otherwise ordered by the Court, all motion papers not covered by subparagraphs (a) and (b) shall be served at least fourteen (14) days before the return date. Where service is made at least fourteen (14) days before the return date, any answering papers shall be served so as to ensure actual receipt not later than seven (7) days before the return date, and reply papers shall be served so as to ensure actual receipt not later than 4:00 p.m. three (3) days before the return date or on the date any agenda is required to be filled in accordance with any case management order entered in the case, unless the Court orders otherwise. Untimely papers may be rejected.

Rule 9013-1 MOTION PRACTICE

(c) *Entities to Receive Notice.* In addition to all entities otherwise entitled to receive notice, notice of a motion shall be given to any entity believed to have or

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be claiming an interest in the subject matter of the proposed order or who, it is believed, otherwise would be affected by the proposed order.

Appellant claims here that the motion is unopposed without providing any evidence of obtaining a return date or the filing or service of a notice of motion. In fact, a review of the docket shows that no notice of motion had ever been filed or served and no return date ever set.¹ Thus, not only is the motion **not** “unopposed,” it was never even lodged.

Therefore, the Appellant’s claim that the motion is unopposed is unfounded.

Appellee AREH is prepared to attend a conference to discuss the issues presented, but in lieu of such conference, AREH asserts that the Appellant Letter should be stricken from the record.

Respectfully submitted,

/s/ Jonathan T. Koevary

Jonathan T. Koevary

¹ An excerpt of the Bankruptcy Docket from September 1, 2025 through 10:00 am this morning is attached as **Exhibit 1** hereto.

EXHIBIT 1

In re JJ Arch LLC, Case No. 24-10381-jpm Docket as of September 1, 2025

**U.S. Bankruptcy Court
Southern District of New York (Manhattan)
Bankruptcy Petition #: 24-10381-jpm**

Assigned to: Judge John P. Mastando III
Chapter 11
Voluntary
Asset

Date filed: 03/07/2024
341 meeting: 06/20/2024

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Filing Date	#	Docket Text
10/14/2025	237 (14 pgs; 2 docs)	Motion to Reconsider FRCP 60 or FRBP 3008 Motion by Debtor JJ Arch LLC for an Indicative Ruling Under Bankruptcy Rule 8008 (related document(s) 215) filed by Benjamin Robert Rajotte on behalf of JJ Arch LLC, Jeffrey Simpson. (Attachments: # 1 Email Attaching Motion by Debtor JJ Arch LLC for an Indicative Ruling Under Bankruptcy Rule 8008) (Rajotte, Benjamin Robert) (Entered: 10/14/2025)
10/14/2025	238 (1 pg)	Notice of Appearance (related document(s) 237) filed by Benjamin Robert Rajotte on behalf of JJ Arch LLC, Jeffrey Simpson. (Rajotte, Benjamin Robert) (Entered: 10/14/2025)
11/07/2025	239 (25 pgs; 4 docs)	Response to Motion Notice of No Opposition to Debtors Motion under Fed. R. Bankr. P. 8008 filed by Benjamin Robert Rajotte on behalf of JJ Arch LLC, Jeffrey Simpson. (Attachments: # 1 Exhibit Attorney Declaration # 2 Exhibit Exhibit A - Joint Defense Agreement # 3 Exhibit Exhibit B - Email and Letter re: 1700 Arch JJ LLC) (Rajotte, Benjamin Robert) (Entered: 11/07/2025)

11/07/2025 11:16:59			
PACER Login:	Olshanlaw123	Client Code:	14039.001DMO
Description:	Docket Report	Search Criteria:	24-10381-jpm Fil or Ent; filed From: 9/1/2025 To: 11/7/2025 Doc From: 0 Doc To: 99999999 Headers: included Format: html Page counts for documents: included
Billable Pages:	2	Cost:	0.20