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November 7, 2025

Via Email and NYSCEF

Honorable Joel M. Cohen
New York Supreme Court, New York County
60 Centre Street
Part 3, Courtroom 208
New York, NY 10007

Re: 608941 NJ INC. v. Jeffrey Simpson, et al., Index No. 158055/2023

Dear Judge Cohen:

This firm represents 608941 NJ Inc. (“Oak”) in the above referenced matter. We submit this letter on behalf of Oak, Jared Chassen (“Chassen”), and Arch Real Estate Holdings LLC (“AREH”), requesting the Court so order the attached Proposed Amended Scheduling Order (“Proposed Order”). The Proposed Order provides set dates for the completion of outstanding discovery and new dates for the deadlines interfered with by the removals to federal court. A copy of the Proposed Order is annexed as Exhibit A.

Despite our best efforts, including a meet and confer that took place earlier this week, counsel for Jeffrey Simpson and JJ Arch LLC (collectively “Simpson”) has refused to consent to the Proposed Order, and instead advocates that the parties start discovery from scratch, *inter alia*, setting new dates for the exchange of requests, deadlines to respond, and eventually the scheduling of depositions. A copy of Simpson’s counter Proposed Amended Scheduling Order (“Counter-Proposal”) is annexed as Exhibit B. Oak, Chassen, and AREH do not agree with the Counter-Proposal, which serves no legitimate purposes other than providing Simpson another vehicle to continue avoiding discovery.

The Proposed Order prepared by Oak, Chassen, and AREH fully complies with the Court’s request for an amended scheduling/case management order, providing dates certain for outstanding deadlines and the completion of all discovery in advance of a July 27, 2026 trial date. *See* Ex. A.

First, the Proposed Order gives Simpson one last chance to provide outstanding discovery responses by a date certain. Not surprisingly, to date, Simpson has provided *no response* to any discovery request served by Oak or Chassen in violation of the rules of procedure and the Scheduling Order, dated December 6, 2024. *See* NYSCEF Doc. No. 1001, ¶¶ 4, 6. The Proposed Order provides one last opportunity for Simpson to avoid motion practice

and respond to outstanding discovery, without objection (except for privilege and palpably improper to the extent they even apply).¹

Second, the Proposed Order sets dates certain for party depositions (between December 12, 2025 and December 18, 2025) and a deadline to complete non-party depositions. Simpson's improper removals to federal court interfered with both of these deadlines from the prior Scheduling Order (NYSCEF Doc. No. 1001).²

Third, the Proposed Order includes all other dates necessary for the completion of discovery in this matter. It includes deadlines for expert discovery, requests to admit, filing of note of issue, and an expedited deadline for the filing of motions for summary judgment. As discussed above, Simpson's improper removals to federal court prevent the parties from completing party and non-party depositions, which necessarily impacted the remaining deadlines needed to complete discovery in this case. The Proposed Order addresses that issue.

Finally, the Proposed Order places the parties on notice that any further failure to comply with discovery shall result in the issuance of sanctions. This instruction is necessary, *inter alia*, in light of Simpson's continued failure to provide any discovery and his repeated violation of court orders.

In stark contrast, the Counter-Proposal prepared by Simpson seeks to start discovery from scratch, wiping away the Court's prior Scheduling Order, the deadlines that passed prior to Simpson's frivolous removals, and the consequences of Simpson's failure to comply with those deadlines. *See Ex. B.* Far from a good faith submission designed to effectuate the completion of discovery in advance of the July trial date, the Counter-Proposal serves no legitimate purpose other than providing Simpson with a pretext to delay, linger, and frustrate discovery. Among other issues, the Counter-Proposal starts document discovery over from the beginning, includes no deadline for party depositions (just a blank space), and seeks to incorporate other inapposite deadlines (i.e. submission of confidentiality order). The Counter-Proposal makes it clear that Simpson intends to comply with *nothing*, and run out the clock on discovery.

The Court should not reward Simpson's improper tactics. Simpson has had ample opportunity to seek discovery as any ordinary party would. Instead, he quite consciously waived

¹ By failing to respond by the court ordered deadlines, Simpson waived all objections, except for privilege and/or palpably improper. *See Anonymous v. High Sch. for Env't Stud.*, 32 A.D.3d 353, 358–59 (1st Dep’t 2006) (“failure to object to the demand generally limits our review to the question of privilege under CPLR 3101(b)’’); *see also J.B. v. M.G.*, 65 Misc. 3d 1205(A) (N.Y. Sup. Ct. 2019) (failure to assert particularized objections within 20 days of service of CPLR 3120 demand, limited the court’s ability to issue a protective order); *Stark v. Matchett*, No. 651815/2014, 2016 WL 4094721, at *2 (N.Y. Sup. Ct. Aug. 01, 2016) (“When the recipient of a demand for disclosure under CPLR § 3120 fails to respond within the time limitations in CPLR § 3122(a), that party significantly limits the grounds for objection.”); *Segura v. Pier 59 Studios LP*, No. 151256/2021, 2022 WL 2106513, at *1 (N.Y. Sup. Ct. June 07, 2022) (failure to timely object “forecloses inquiry into the propriety of the information sought”) (internal quotations omitted).

² The Scheduling Order set an April 25, 2025 deadline to complete party depositions and a June 27, 2025 deadline to complete non-party depositions. *See NYSCEF Doc. No. 1001*. As the Court is aware, during that time period the case was in various states of limbo from April to June 2025 as the case moved back and forth from state to federal court.

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that opportunity by devoting his resources and everyone's time to collateral attacks on this Court, improper removals designed to frustrate this Court's orders, and engaging in other sanctionable conduct. That was his choice and his choice alone and that choice comes with consequences. As a result, the Court should enter the Proposed Order prepared by Oak, Chassen and AREH. Thank you for your consideration of this matter.

Respectfully submitted,



David A. Gold