

**CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
SARASOTA COUNTY, FLORIDA
CIVIL DIVISION**

TRUMP MEDIA & TECHNOLOGY
GROUP CORP. and TMTG Sub
Inc.,

Plaintiffs/Counterdefendants,

v.

ARC GLOBAL INVESTMENTS II
LLC,

Defendant/Counterplaintiff,

and

PATRICK ORLANDO, UNITED
ATLANTIC VENTURES, LLC,
ANDREW LITINSKY, and
WESLEY MOSS,

Defendants.

Case No.

2024-CA-001061-NC

**BRIEF OF *AMICI CURIAE* STATES OF FLORIDA, IOWA, AND
19 STATES IN SUPPORT OF PRESIDENT TRUMP'S
MOTION TO QUASH**

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IDENTITY AND INTEREST OF AMICI CURIAE

Amici curiae have deep constitutional and structural concerns with the potential for litigation distracting the President of the United States. And this President has faced more lawsuits filed in State courts than every President that served before him combined. Each State has its own court system with its own rules and its own imperative to ensure that justice is done. But the prospect of active civil litigation against the sitting President of the United States has long presented cause for concern. *See, e.g., Clinton v. Jones*, 520 U.S. 681, 710–11 (1997) (Breyer, J., concurring in judgment). Those concerns only intensify where, as here, the party seeks to impose burdensome discovery demands on the President, including sitting for a deposition. That is why *Amici*, the States of Florida, Iowa, and 19 States, file this brief in support of President Trump’s motion to quash.

A vital—if not dispositive—consideration for this Court, in deciding whether the President must produce documents and sit for a deposition, is the “principle of the President’s independent authority to control his own time and energy.” *Id.* at 711. The States each have a strong interest in President Trump maintaining focus on his priorities in office rather

than being forced to divert his attention to piecemeal litigation scattered among the 50 States. This Court's inherent power allows it to act prudentially to avoid imposing the time, cost, and expense of litigation on the sitting President of the United States. This case is important, in the public interest, and should proceed. But the discovery demanded from President Trump simply isn't relevant or necessary to resolve this important case. This Court should quash the subpoenas.

This lawsuit was filed in early 2024—well before President Trump won reelection and the responsibilities accompanying that reelection became realized. As sovereign States, *amici* have a special concern for the preservation of our constitutional form of government. And the Constitution only holds our union of States together in harmony if it is upheld by the courts. Across the country, States have filed amicus briefs cautioning courts against both civil and criminal judicial actions that endorse lawfare against the President. *See, e.g., People of the State of N.Y. v. Trump*, Brief of South Carolina et al. as Amici Curiae Supporting Defendant-Appellant, New York County Clerk's Index No. 452564/2022 (2024) (No. 2023-04925). The subpoena in this case again raises the

specter of a “chilling effect” on the President’s “carrying out of his responsibilities.” *Trump v. United States*, 603 U.S. 593, 604 (2024).

SUMMARY OF ARGUMENT

This Court should quash UAV Defendants’ non-party subpoenas for President Trump. This dispute involves disagreement about, among other issues, a services agreement that defined rights and responsibilities between various TMTG stakeholders concerning ownership rights and board seats. After a series of filings across multiple states and venues, UAV Defendants now seek to subpoena documents from the President, his family, and chief advisors. Not only that, they also ask the Court to sanction the truly extraordinary step of deposing a sitting President.

Years ago, the Supreme Court recognized the potential for such suits to become a serious problem. *See Clinton*, 520 U.S. at 692 (acknowledging three sitting Presidents had been subject to lawsuits involving acts taken before entering office). As Justice Breyer warned, suits against a sitting President “pose a significant threat to the President’s official functions.” *Id.* at 723 (Breyer, J., concurring in judgment). That prediction came to pass with President Trump, who has

been the recipient of more targeted lawfare in the form of civil suits than any other President.

Trump v. United States, in holding that Presidents are immune from criminal prosecution for actions taken within the core of the President's duties, reflects this concern. 603 U.S. at 610–11. The potential for distraction is similar in civil suits, where a private party might use litigation to distract the President from the enormous task of running the country. State courts have long had authority to abstain from deciding cases that would create conflicts in the federal system. This Court should exercise that judgment here and decline to subject the sitting President of the United States to burdensome discovery demands.

ARGUMENT

I. President Trump faces unprecedented state court lawsuits, presenting a special concern for distraction from his official duties.

President Trump has faced more lawsuits filed in state courts than every President in American history combined. The potential that this flood of lawsuits could distract the President from carrying out his official duties is of concern to every American. In deciding whether UAV Defendants' burdensome subpoenas are tolerable, the Court must consider not only the time, energy, and distraction imposed by this

litigation on President Trump but also the cumulative effect of each of those lawsuits. Those broader dynamics permit just one conclusion: The Court should quash the subpoenas.

Multiple Supreme Court holdings bolster this conclusion. In, *Clinton v. Jones*, the Court acknowledged that the “federalism and comity concerns” with a state court asserting jurisdiction over the President could “present a more compelling case for immunity” than, as in *Clinton*, a federal suit against the President. 520 U.S. at 691. “[D]irect control by a state court over the President,” the Court stressed, may implicate the “Supremacy Clause” in a manner that is “quite different from the interbranch separation-of-powers questions” at issue in whether a federal civil case should be allowed to proceed. *Id.* at 691 n.13 (citing L. Tribe, *American Constitutional Law* 513 (2d ed. 1988) (“[A]bsent explicit congressional consent no state may command federal officials . . . to take action in derogation of their . . . federal responsibilities”)). When the sitting President is compelled to undergo burdensome discovery, it directly impedes his obligation to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3.

Indeed, *Clinton*—which found that the President was not immune from a civil suit in *federal* court—ended by addressing two concerns that it believed were not serious: first, “the risk that our decision will generate a large volume of politically motivated harassing and frivolous litigation,” and second, “the danger that national security concerns might prevent the President from explaining a legitimate need for a continuance.” 520 U.S. at 708. Despite the Court’s “optimism” to the contrary, the first risk—once merely hypothetical—is now very real. *See id.* at 723 (Breyer, J., concurring in judgment). The President is already facing never-before-seen litigation across the country. That unique and cumulative challenge creates a severe problem for the important functions that the President must prioritize.

The Supreme Court offered a series of potential solutions to these concerns: One answer to this challenge offered by Justice Breyer is for “courts . . . to develop administrative rules applicable to such cases (including postponement rules of the sort at issue in this case [*Clinton*]) in order to implement the basic constitutional directive.” *Id.* That concern becomes even more pressing given the mosaic of different rules, laws, and lawsuits available across the 50 States. But at minimum, the Court

should not exacerbate those concerns by imposing real and tangible demands on the President by forcing him to produce documents and sit for a deposition.

II. Florida common law requires quashing the subpoenas in these extraordinary circumstances.

Constitutional avoidance is a fundamental principle across the country and in Florida courts. *See, e.g., State v. Mozo*, 655 So. 2d 1115, 1117 (Fla. 1995) (“[W]e adhere to the settled principle of constitutional law that courts should endeavor to . . . avoid constitutional issues.”). That is because “[u]nder the prudential rule of necessity, constitutional issues must not be resolved in advance of a strict necessity for deciding them.” *Berent v. City of Iowa City*, 738 N.W.2d 193, 205 (Iowa 2007) (citing *INS v. Chadha*, 462 U.S. 919, 937 (1983)). *State v. Mozo* declined to reach a privacy-right issue because it was not essential to resolve the case. *See* 655 So. 2d at 1117. Any decision forcing the President of the United States to sit for a deposition or produce documents, however, would create a collision-course with these constitutional concerns. The Court should not go down that perilous course.

The Supreme Court has explained that state courts should consider the “high respect that is owed to the office of the Chief Executive” in

moving forward with litigation against the sitting President. *See Trump v. Vance*, 591 U.S. 786, 809 (2020) (regarding evidentiary requirements for State grand jury proceedings) (quoting *Clinton*, 520 U.S. at 707 (Breyer, J., concurring in judgment)). As relevant here, that includes *defenses to subpoenas*, including “challeng[ing a] subpoena as an attempt to influence the performance of his official duties, in violation of the Supremacy Clause.” *Id.* at 809–10. So too here. And those defenses are meant, the Supreme Court explained, to forestall “local political machinations ‘interposed as an obstacle to the effective operation of a federal constitutional power.’” *Id.* at 810 (quoting *United States v. Belmont*, 301 U.S. 324, 332 (1937)).

Florida law adheres to these same principles. In rejecting a lower court’s attempt to demand the Governor and his deputy appear before it for contempt proceedings, the Florida Supreme Court dismissed as “unthinkable” the idea of allowing judicial interference to “thwart the powers of the executive and thereby prevent or interfere with the full, unfettered performance of his official duties.” *Kirk v. Baker*, 229 So. 2d 250, 252 (Fla. 1969). “[T]hroughout our history,” the Court explained, “the respective branches of government in our country have . . .

assiduously avoided any encroachment on one another’s authority.” *Id.* at 253. The Court therefore held that “the Governor and his subordinate” were “completely immune from the processes of the Criminal Court of Record of Dade County,” including from the trial court’s contempt powers. *Id.* at 252.

That respect for other branches of government plays out in multiple ways. For example, Florida has officially adopted the apex doctrine to prevent burdensome discovery requests against high-level government officials. *See In re Amend. to Fla. Rule of Civ. Proc. 1.280*, 324 So. 3d 459, 460 (Fla. 2021) (“Preventing harassment and unduly burdensome discovery has always been at the heart of [the apex] doctrine in our state.”). In another example, the Fourth District recently suggested that it would be improper for a state court to exercise judicial process over the President in similar circumstances. *See Alexander v. Trump*, 413 So. 3d 795, 799–800 (Fla. 4th DCA 2025). When a President is sued in his individual capacity in state court and “attempts are made to institute compulsory process over him, the risk of distractions to his public duties in dealing with such lawsuits creates an inherent risk to the effective functioning of government.” *Id.* at 799. “Such lawsuits subject a President

not only to potential harassment, but also risk diverting him from his official duties which are of ‘unrivaled gravity and breadth.’” *Id.* (quoting *Vance*, 591 U.S. at 800). For those reasons, the Fourth District implied in *Alexander* that a lawsuit against the President in his individual capacity in state court should be stayed during the President’s term. *See id.*¹ Burdensome third-party discovery propounded on the President presents the same risk of disruption to the functioning of the federal Executive.

All in all, Florida common law evinces the utmost respect for the Office of the President of the United States and bars any effort by a state-court litigant to depose the President or subpoena his documents.

III. UAV Defendants cannot meet the high demand of discovery on non-parties.

For the reasons above, UAV Defendants’ subpoenas run headlong into multiple constitutional doctrines. That already unreasonable request is only weakened by the fact that President Trump is an executive and a non-party to this suit.

¹ Those principles did not counsel in favor of staying the suit in *Alexander* only because the President *himself* had brought the action, and it is “solely in his prerogative” to determine that the suit “would [not] be a diversion.” 413 So. 3d at 800.

In Florida, discovery demands directed toward non-parties or executives generally face a higher standard. *See Rousso v. Hannon*, 146 So. 3d 66, 71 (Fla. 3d DCA 2014); *see also Gulfcoast Spine Inst., LLC v. Walker*, 313 So. 3d 854, 859 (Fla. 2d DCA 2021); *Dep't of Agric. & Consumer Servs. v. Broward Cnty.*, 810 So. 2d 1056, 1058 (Fla. 1st DCA 2002) (Executives “should not be subject to [discovery], over objection, unless and until the opposing parties have exhausted other discovery and could demonstrate that the agency head is uniquely able to provide relevant information which cannot be obtained from other sources.”). Because President Trump is both a non-party and an executive, Florida demands a heightened discovery standard.

UAV Defendants’ failure to meet their higher discovery standard is two-fold. First, they fail to exhaust other discovery from existing parties, instead relying directly on President Trump. *E.g.*, [DIN 807] at 17 (Request No. 3: “All Communications with or concerning Andrew Litinski”; Request No. 4: “All Communications with or concerning Wesley Moss”). Second, they fail to demonstrate that President Trump is uniquely able to provide information unobtainable from other sources. In the most obvious example, UAV Defendants demand President Trump

produce “[a]ll [c]ommunications with or concerning UAV”. *Id.* Certainly UAV Defendants, or other existing parties, are better positioned to produce the requested discovery.

As President Trump’s motion to quash makes clear, UAV Defendants have not even attempted to demonstrate their need to obtain discovery directly from the President. *See* [DIN 949] at 19–20. Nor can they, given that any information sought from President Trump is far removed from and irrelevant to the resolution of the underlying merits of this case. Equally fatal is the fact that UAV Defendants have not explored less intrusive demands or less burdensome alternatives to get the information they seek from the President. Instead, UAV Defendants immediately demanded that the Commander-in-Chief of the United States make himself available for a deposition and produce personal documents. That radical request cannot be sustained.

CONCLUSION

This Court should grant President Trump's motion to quash UAV Defendants' subpoenas.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief contains 1,920 words, within the 7,000-word limit.

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