



1133 Avenue of the Americas  
Suite 1500  
New York, New York 10036

(212) 316-9500  
rkaplan@kaplanmartin.com

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**BY ACMS**

Catherine O'Hagan Wolfe, Clerk of Court  
United States Court of Appeals for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

*Re: Carroll v. Trump, No. 24-644*

Dear Ms. Wolfe:

We write on behalf of Plaintiff-Appellee E. Jean Carroll with respect to the above-referenced appeal, which involves the following two matters to be resolved by this Court: (1) Defendant-Appellant Donald J. Trump's appeal from the \$83.6 million final judgment of the district court (Dkt. Nos. 51, 88, 98); and (2) President Trump and the United States of America's Joint Motion to Substitute the United States pursuant to the Westfall Act (Dkt. Nos. 107, 109, 112) (the "Motion to Substitute"). Both of these matters have been fully briefed. The Motion to Substitute has been referred to the merits panel. (Dkt. No. 108.1). It is our understanding that oral argument with respect to the appeal from the final judgment has been scheduled for June 24, 2025. (Dkt. No. 110).

We respectfully request that the Court resolve the Motion to Substitute in advance of the June 24 oral argument for at least two reasons. First, the Motion to Substitute is effectively a gating issue in the sense that it will determine who gets to argue the merits appeal, counsel for President Trump or counsel for the United States. As we explain in our papers (Dkt. No. 109), we believe that the United States is not a proper party, which means that an attorney from the United States Department of Justice cannot argue the appeal. But if there is no decision on the Motion to Substitute before the oral argument on June 24, then there likely will be confusion about who should argue on behalf of President Trump, especially if the Court intends to hear argument on both matters on June 24.

Second, while we believe that this Court should deny the Motion to Substitute (Dkt. No. 109 at 4-13), if the Court is not inclined to deny the Motion to Substitute at this time, then we believe that the proper course would be for the Court to remand this case back to the district court for further proceedings. (*Id.* at 13-16; Dkt. No. 113).

We have reached out to counsel for President Trump and the United States and they do not oppose this request.

Respectfully submitted,



Roberta A. Kaplan

cc: Counsel of Record (via ACMS)