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March 17, 2023

VIA ECF

The Honorable Lewis A. Kaplan
United States District Court
Southern District of New York
Daniel Patrick Moynihan
500 Pearl Street
New York, New York 10007

Re: Carroll v. Trump, No. 20 Civ. 07311 (LAK)

Dear Judge Kaplan:

I write on behalf of all parties concerning the trial date in this case (*Carroll I*), as well as the trial date in *Carroll v. Trump*, No. 22 Civ. 10016 (*Carroll II*).

The trial date in *Carroll I* is currently set for April 10, 2023, ECF No. 100, and the trial date in *Carroll II* is currently set for April 25, 2023, *see Carroll II*, ECF No. 49. The Court has stated its intention to address at a later date whether to try these actions together. *See Carroll II*, ECF No. 49. As the parties have begun their pretrial preparations—and have submitted motions related to the trial proceedings—they have also met and conferred concerning the possibility of a single consolidated trial, which would advance important interests of efficiency and judicial economy. Following those discussions, and consistent with the attached stipulation, the parties jointly and respectfully request that the Court consolidate the trials in *Carroll I* and *Carroll II*, subject to the following proposed terms and conditions that are agreed to by both parties:

- The consolidated trial shall start on April 25, 2023.
- The consolidated trial shall cover liability and damages for both *Carroll I* and *Carroll II*.
- The jury shall use a special verdict form to separately identify the damages, if any, attributable to each claim in *Carroll I* and *Carroll II*.
- Under Federal Rules of Civil Procedure 54(b) and 58(b)(2), the Court shall enter judgment on *Carroll I* only after all interlocutory appeals are finally resolved.

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- The parties shall not seek any stay of the trial date in either *Carroll I* or *Carroll II*.
- The parties shall waive any objection to the trial judgment in *Carroll II* based on its consolidation with *Carroll I*.
- On April 17, 2023, the parties shall jointly notify the District of Columbia Court of Appeals of the upcoming jury trial schedule and respectfully request that the court defer issuing any decision until the conclusion of the trial.

This joint proposal is consistent with Federal Rule of Civil Procedure 42(a), which is “a valuable and important tool of judicial administration, invoked to expedite trial and eliminate unnecessary repetition and confusion.” *Devlin v. Transp. Commc’ns Int’l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (internal quotations omitted). Indeed, consolidation is favored where it would “reduce the costs for all parties, and avoid the possible risk of inconsistent rulings.” *Darezzo v. 200 Ninth Rest. LLC*, No. 14 Civ. 5099, 2015 WL 195852, at *3 (S.D.N.Y. Jan. 14, 2015).

The parties believe that trying *Carroll I* and *Carroll II* together serves these interests. Your Honor has recognized that the same factual question is “central” to both actions. *Carroll v. Trump*, No. 20 Civ. 7311, 2022 WL 6897075, at *7 (S.D.N.Y. Oct. 12, 2022). As such, evidence relating to this central factual question “is relevant to both cases,” *id.*, and will be presented at both trials. Because of the overlapping nature of these proceedings, a single trial will reduce costs across the board, avoid the risk of inconsistent factual rulings or jury confusion, and economize matters for the Court (as well as for both parties’ witnesses). Finally, the parties are confident that their joint proposal accounts for any issues that might arise relating to the D.C. Court of Appeals’ ultimate answer to the certified question and any subsequent action that the Second Circuit might take.

A Stipulation and Proposed Order memorializing the parties’ proposed plan for consolidation is attached. The parties are available to discuss this proposal if helpful to the Court.

Respectfully submitted,



Roberta A. Kaplan

cc: All Counsel of Record

(Attachment)