

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E. JEAN CARROLL,

Plaintiff,

-against-

20-cv-7311 (LAK)

DONALD J. TRUMP, in his personal capacity,

Defendant.
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**ORDER RULING ON OBJECTIONS
TO DEPOSITION DESIGNATIONS**

LEWIS A. KAPLAN, *District Judge.*

The Court’s rulings on the objections noted by the parties to the designations and counter-designations of certain portions of Mr. Trump’s deposition are set forth in the attached schedule. The notation “deferred” means that the Court reserves decision on the objection until it issues its ruling on the parties’ outstanding evidentiary motions.

The Court overrules Mr. Trump’s broad objection under Federal Rule of Civil Procedure 32 to the use of any portion of his deposition transcript. His contention that its use would be improper because he is listed as a possible witness is utterly frivolous. Rule 32(a)(3) provides that an “adverse party may use for *any purpose* the deposition of a party,”¹ whether they are available to testify live or not. Thus, Ms. Carroll will be permitted to play her otherwise admissible deposition designations at trial even were Mr. Trump to testify.

With respect to Ms. Carroll’s objections to Mr. Trump’s counter-designations, the Court again has sustained those objections that it has determined are inappropriate under Rule 32(a)(6), which allows a party to cross-designate and “introduce [only] other parts [of a deposition]

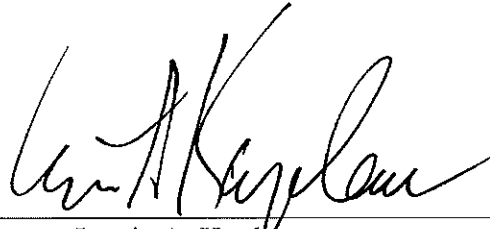
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Fed R. Civ. P. 32(a)(3) (emphasis added); *see also Wei Yan Yan v. 520 Asian Rest. Corp.*, No. 13-CV-2417 (KNF), 2014 WL 4378746, at *4 (S.D.N.Y. Sept. 4, 2014) (broadly defining “any purpose”); *Keawsri v. Ramen-Ya Inc.*, No. 17-CV-2406 (LJL), 2022 WL 2391692, at *1 (S.D.N.Y. July 1, 2022) (“it is quite immaterial that the adversary is available to testify at the trial or has testified there”) (internal citation and quotation marks omitted).

that in fairness should be considered with the part introduced.” Mr. Trump attempts to include as counter-designations testimony that already was rejected on this basis in *Carroll II*, and the Court incorporates its earlier order in that case to the extent relevant.²

SO ORDERED.

Dated: January 4, 2024

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", written over a horizontal line.

Lewis A. Kaplan
United States District Judge

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Dkt 158, *Carroll v. Trump*, No. 22-CV-10016 (LAK) (*Carroll II*).

A. Plaintiff's Designations of Defendant's Deposition and Defendant's Objections

Plaintiff's Designations	Defendant's Objections
12:21 - 13:9 Overruled	FRE 402, 403
13:17 - 13:19 Overruled	FRE 402
13:24 - 14:9 Overruled	FRE 402
42:5 - 42:8 Overruled	FRE 402, 403
43:4 - 43:14 Overruled	FRE 402, 403
54:9 - 55:3 Overruled	FRE 402, 403
55:7 - 55:18 Overruled	FRE 402, 403
56:8 - 56:12	No objection
57:6 - 57:11	No objection
57:15 - 57:18	No objection
60:3 - 60:5	No objection
61:6 - 61:14	No objection
61:22 - 62:18	No objection
67:7 - 67:9	No objection
68:3 - 68:21	No objection
69:7 - 69:23	No objection
81:21 - 83:2 Overruled	FRE 402, 403, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
87:6 - 88:3 Overruled	FRE 402, 403
88:7 - 88:17 Overruled	FRE 402, 403
89:18 - 90:11	No objection
93:19 - 94:20 Overruled	FRE 402, 403
95:4 - 95:5 Overruled	FRE 402, 403
95:8 - 95:8 Overruled	FRE 402, 403
103:8 - 103:19	No objection
125:22 - 126:3 Overruled	FRE 402
127:5 - 128:5 Overruled	FRE 402, 403
130:6 - 130:19	No objection
130:25 - 131:4 Overruled	FRE 402, 403
131:11 - 131:13 Overruled	FRE 402, 403
131:16 - 131:20 Overruled	FRE 402, 403
131:24 - 132:5 Sustained	FRE 402, 403
134:10 - 134:13 Overruled	FRE 402, 403
137:9 - 138:3	No objection
141:21 - 142:14 Overruled	FRE 402, 403
146:16 - 146:21 Overruled	FRE 402, 403
147:3 - 147:17 Overruled	FRE 402, 403

Plaintiff's Designations	Defendant's Objections
147:20 - 148:7 Overruled	FRE 402, 403
148:9 - 148:20 Overruled	FRE 402, 403
148:22 - 149:2 Overruled	FRE 402, 403
149:4 - 149:6 Overruled	FRE 402, 403
168:20 - 168:25 Deferred	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
169:4 - 169:6 Deferred	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
169:8 - 169:21 Deferred	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
170:2 - 170:4 Deferred	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
174:5 - 174:21 Deferred	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
176:8 - 176:11 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
180:23 - 181:9 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
181:11 - 181:14 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
182:23 - 183:2 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
183:25 - 184:9 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
184:13 - 184:22 Sustained	FRE 402, 403, 404, Memorandum Opinion, <i>Carroll v. Trump</i> , No. 20 Civ. 7311 (Sept. 6, 2023), ECF 214 limiting trial to damages only.
209:4 - 209:19 Sustained	FRE 402, 403

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B. Defendant's Counter-Designations and Plaintiff's Objections

Defendant's Counter-Designations		Plaintiff's Objections
50:25 - 51:6	Sustained	FRCP 32(a)(6); FRE 106 ³ , 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
51:8 - 51:12	Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
53:11 - 53:24	Overruled	FRCP 32(a)(6); FRE 106, 402
55:20 (starting with "it was") - 56:5	Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
58:5 - 58:6		No objection
58:14 - 59:23		No objection
60:3 - 60:18	Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802; Memorandum Opinion on Collateral Estoppel, ECF 214 No objection to 60:3 - 60:5
67:10 - 67:18	Overruled	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
71:4 - 71:24	Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214

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Defendant's Counter-Designations	Plaintiff's Objections
72:6 - 72:10 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802; Memorandum Opinion on Collateral Estoppel, ECF 214; <i>see also Carroll II</i> , Memorandum and Order on Plaintiff's <i>In Limine</i> Motion, ECF 95 at 21 (precluding Trump from "giving ... testimony concerning information allegedly known to persons whom he has not disclosed")
72:14 - 73:16 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802; Memorandum Opinion on Collateral Estoppel, ECF 214; <i>see also Carroll II</i> , Memorandum and Order on Plaintiff's <i>In Limine</i> Motion, ECF 95 at 21
73:18 - 73:20 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802; Memorandum Opinion on Collateral Estoppel, ECF 214; <i>see also Carroll II</i> , Memorandum and Order on Plaintiff's <i>In Limine</i> Motion, ECF 95 at 21
77:14 (starting with "And if") - 78:5 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802 ⁴ ; Memorandum Opinion on Collateral Estoppel, ECF 214
80:4 - 80:16 Overruled	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
91:3 - 91:15 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 412, 602, 802; Memorandum Opinion on Collateral Estoppel, ECF 214
103:6 - 103:19	No objection
116:22 - 117:4 Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
119:5 - 119:22 Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
119:24 - 120:15 Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
131:5 - 131:9 Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
134:19 - 134:24 Sustained	FRCP 32(a)(6); FRE 106, 402, 602, 802

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Defendant's Counter-Designations	Plaintiff's Objections
139:8 - 139:24 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum Opinion on Collateral Estoppel, ECF 214
141:3 - 141:20 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum Opinion on Collateral Estoppel, ECF 214
146:22 - 147:2 Sustained	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
148:9 - 148:13	No objection
172:3 - 172:10 (Defendant designates only because the issue of whether the "Access Hollywood" tape is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)	No objection
174:22 - 175:4 (ending with "people talk") (Defendant designates only because the issue of whether the "Access Hollywood" tape is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)	No objection
176:12 - 176:17 (ending with "remember it") (Defendant designates only because the issue of whether Natasha Stoyloff's testimony, and evidence relating to said testimony, is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)	No objection

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Defendant's Counter-Designations	Plaintiff's Objections
<p>176:19 (starting with "a long time") - 177:4 (ending with "phony charge") (Defendant designates only because the issue of whether Natasha Stoyloff's testimony, and evidence relating to said testimony, is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)</p>	No objection
<p>183:13 - 183:23 (ending with "disgrace, also.") (Defendant designates only because the issue of whether Jessica Leeds's testimony, and evidence relating to said testimony, is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)</p>	No objection
<p>185:3 - 187:3 Sustained (Defendant designates only because the issue of whether Jessica Leeds's testimony, and evidence relating to said testimony, is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)</p>	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802
<p>191:25 - 192:22 (Defendant designates only because the issue of whether Jessica Leeds's testimony, and evidence relating to said testimony, is admissible at trial remains pending before this Court, and Plaintiff's designations on this issue, and reserves all rights on appeal)</p>	No objection
<p>210:17 - 210:19 Sustained</p>	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214
<p>210:22 - 210:25 Sustained</p>	FRCP 32(a)(6); FRE 106, 402, 403; Memorandum Opinion on Collateral Estoppel, ECF 214

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Defendant's Counter-Designations	Plaintiff's Objections
215:3 - 215:19 Sustained	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum Opinion on Collateral Estoppel, ECF 214