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**AMERICAN ARBITRATION ASSOCIATION  
NEW YORK, NEW YORK**

x

DONALD J. TRUMP FOR PRESIDENT, INC.,  
a Virginia not-for-profit corporation

Claimant,

-v-

**SUPPLEMENTAL MEMORANDUM  
IN SUPPORT OF RESPONDENT'S  
MOTION FOR PROTECTIVE ORDER**

OMAROSA MANIGAULT NEWMAN,  
an individual,

Respondent,

x

**SUPPLEMENTAL MEMORANDUM IN SUPPORT  
OF RESPONDENT'S MOTION FOR PROTECTIVE ORDER**

Respondent Omarosa Manigault Newman (Ms. Manigault Newman), by and through her undersigned counsel, hereby submits this Supplemental Memorandum in Support of Respondents Motion for Protective order and in opposition of Claimant's Motion for Protective Order.

**UNITED STATES OF AMERICA V. OMAROSA MANIGAULT NEWMAN**

On June 25, 2019, ten days ago, the United States Department of Justice filed a lawsuit against Respondent Manigault Newman for allegedly, "knowingly and willfully failing to file her termination financial disclosure report after her employment terminated with the Executive Office of the President." The lawsuit was filed in the United States District Court for the District



of Columbia and bears case number 1:19-cv-01868. According to the Complaint, the Department of Justice brought the lawsuit because **“the Executive Office of the President referred this matter to the Department of Justice for commencement of an action....”**

This new lawsuit, filed by the Department of Justice at the request of the Executive office of the President, is the latest in a long line of retaliatory acts undertaken by President Trump against Ms. Manigault Newman since her departure from the White House.

Clearly, Ms. Manigault Newman has the constitutional right to fully defend herself in this latest frivolous lawsuit, brought at the request President Trump. To do so, Respondent Manigault Newman anticipates submitting evidence from this arbitration, including but not limited to, pleadings, briefs, memoranda, motions, letters, affidavits, orders, and other documents filed with or by the Arbitrator or the American Arbitration Association, testimony, exhibits, transcripts, written discovery request, interrogatory responses, responses to request to admit, and any other information or material produced, given or exchanged, including any information contained therein or derived therefrom.”

As discussed below, the rules governing this present arbitration action prohibit this arbitration material from being cloaked in confidentiality. In addition, the rules governing this arbitration expressly hold that **“evidentiary material at arbitration is not immune from disclosure”**<sup>1</sup> in the DOJ lawsuit. Respondent Manigault Newman has the right to disclose this information in an effort to defend herself and fully anticipates doing so.

### LAWS GOVERNING THIS ARBITRATION

#### A. AAA RULES

According to the Nondisclosure Agreement, this arbitration action is governed by the “rules of commercial arbitrations of the American Arbitration Association.” Respondent

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<sup>1</sup> *Kamyrr, Inc. v. Combustion Eng’g*, 161 A.D.2d 233, 554 N.Y.S.2d 619

Manigault Newman addressed the AAA rules and regulations in her previously filed Motion for Protective Order. For review, the AAA Commercial Rules states the following in regards to “confidentiality,”

**The AAA takes no position on whether parties should or should not agree to keep the proceeding and award confidential between themselves. The parties always have a right to disclose details of the proceeding, unless they have a separate Confidentiality Agreement.**

The parties do not have a “separate Confidentiality Agreement.” As such, the arbitration proceedings are not confidential and Ms. Manigault Newman has the right to disclose details of the proceeding. For further analysis on the AAA rules, please refer to Respondent’s Motion for Protective Order.

#### **B. STATE OF NEW YORK**

The Nondisclosure Agreement also states that, “This agreement is deemed to have been made in the State of New York, and any and all performance hereunder, breach hereof, or claims with respect to the enforceability of this agreement must be interpreted and construed pursuant to the laws of the State of New York without regard to conflict of laws or rules applied in the State of New York.”

##### **i. Statutory Law**

The state of New York has codified its laws governing arbitration actions in New York’s C.P.L.R. Article 75 which consists of fourteen statutes governing all aspects of arbitrations. Significantly, Article 75 does not provide any express or implied statutory protection of confidentiality. Article 75 does not even mention the words “confidential” or “confidentiality.” As such, New York state statutes do not entitle Claimant to its requested relief, not do they cloak the arbitration material in a blanket of confidentiality.

## **ii. Common Law**

In addition, New York common law has consistently held that arbitration materials are not confidential and are subject to disclosure in other lawsuits, like the one filed by the United States Department of Justice. *See Galleon Syndicate Corp. v. Pan Atl. Group Inc.*, 637 NYS2d 104, 105 (3<sup>rd</sup> Dept. 1996). (**“Parties to arbitration proceedings governed by Rules of American Arbitration Association (AAA) are not prohibited, in the absence of a separate confidentiality provision, from disclosing documents generated or exchanged during arbitration.”**) *See also, Kamyf, Inc. v. Combustion Eng'g*, 161 A.D.2d 233, 554 N.Y.S.2d 619). (**“Evidentiary material at an arbitration proceeding is not immune from disclosure.”**) *See Galleon supra* at 105 (**“There is no confidentiality privilege precluding disclosure of the material requested as the parties to the arbitration proceeding governed by the Rules of American Arbitration Association are, in the absence of a confidentiality provision, not prohibited from disclosing documents generated or exchanged during the arbitration and since evidentiary material at an arbitration proceeding is not immune from disclosure.”**)

## **CONCLUSION**

Neither the AAA rules, New York statutory law, nor New York common law support the imposition of Claimant's requested Protective Order. As such, Claimant's request for such an overbroad protective order should be summarily denied.

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy hereof has been furnished to Charles J. Harder, Esquire, Anthony J. Harwood and Ryan J. Stonerock, Harder LLP, 260 Madison Avenue, Sixteenth Floor, New York, New York 10016, (Attorneys for Claimant) by e-mail to [Charder@HarderLLP.com](mailto:Charder@HarderLLP.com) ; [AHarwood@HarderLLP.com](mailto:AHarwood@HarderLLP.com) ; [Rstonerock@HarderLLP.com](mailto:Rstonerock@HarderLLP.com); and Ann Lesser, Vice President,

American Arbitration Association, 120 Broadway, 21<sup>st</sup> Floor, New York, NY 10271 at  
[AnnLesser@adr.org](mailto:AnnLesser@adr.org) ; this 5th day of July, 2019.

**Law Office of John M. Phillips, LLC**

/s/ John M. Phillips

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