

EXHIBIT J

THE LAW OFFICES OF

DAVID K. BOWLES, PLLC14 WALL STREET, 20TH FLOOR
NEW YORK, NY 10005

TEL. 212-390-8842

FAX 866-844-8305

EMAIL DAVID@LAWDKB.COM

December 24, 2018

By ECFThe Honorable Jesse M. Furman
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007**Re: Denson v. Donald J. Trump for President, Inc., Case No. 18-cv-2690**

Dear Judge Furman:

My colleague Maury Josephson and I represent Jessica Denson in her dispute with Donald J. Trump for President, Inc. (the “Campaign”). We write to request that the Court abstain from considering the Campaign’s December 21, 2018 motion to confirm an arbitration award in the above-captioned case.

The Campaign’s motion, served late Friday before the Christmas holiday weekend, is an exercise in blatant, cynical forum shopping. This Court should abstain from considering it because:

- (1) the Court – *at the Campaign’s request* – entered a final judgment and closed this case on August 30, 2018; and
- (2) the New York Supreme Court (Bluth, J.) (the “State Court”) is already considering a motion to vacate the same arbitration award that the Campaign now asks this Court to confirm, pursuant to an Order to Show Cause entered by the State Court on December 4, 2018 (the “OSC”).

If the Court prefers to hear from counsel, we respectfully request a conference with the Court prior to the January 4, 2019 opposition date for the Campaign’s motion.

The Campaign’s motion is out of order, first, because the Court entered a final judgment and closed this case on August 30, 2018, with an order granting Defendant’s motion to dismiss. (Docket No. 23) (the “Dismissal”). The Court expressly did not stay the case, but rather dismissed it, stating:

Had the Campaign requested it, the Court would have been prepared to stay the case pending arbitration rather than dismiss But the Campaign explicitly requests dismissal (*see* Docket No. 20, at 2), and Denson does not oppose that request for relief. Accordingly, the case is dismissed.

The Honorable Jesse M. Furman
December 24, 2018
Page 2

Docket No. 23 at 3-4 (citing to *Katz v. Cellco P'ship*, 794 F.3d 341, 345 (2d Cir. 2015)).¹ The Court issued a final judgment on August 31, 2018. Docket No. 24. The Campaign should not be allowed to reactivate a case that was dismissed and adjudged on its own request.

Second, the State Court already has asserted jurisdiction over the dispute at issue, which involves state law claims unrelated to this Court's earlier dismissal. The State Court ruled on August 9, 2018, that Ms. Denson's sex discrimination claim was not arbitrable. At that time, the Campaign had a pre-existing claim in arbitration made "in connection with a lawsuit she filed against claimant in New York Supreme Court." (Docket No. 2 at 23).

On November 27, 2018, Ms. Denson moved to stay and/or vacate any award from that arbitration on multiple grounds. Ms. Denson's motion to vacate covers the award the Campaign now seeks to have this Court confirm. On December 4, 2018, the State Court issued an Order to Show Cause against the Campaign (the "OSC"). The OSC sets a briefing schedule for the motion to vacate, with argument on the motion to occur on January 29, 2019.²

Critically, the arbitration award now before the State Court is *not* the arbitration compelled by this Court in the Dismissal. This Court ordered Ms. Denson to arbitration if she wishes to sue to invalidate the underlying Nondisclosure Agreement ("NDA"). Dismissal at 2. The Court expressly noted that "that conclusion is not inconsistent with the state court's decision denying the Campaign's motion to compel arbitration of Denson's state-law claims" Dismissal at 3. Ms. Denson has not yet brought an arbitration demand to invalidate the NDA, though she intends to do so soon. The Campaign's attempt to shoehorn an entirely different arbitration – one based on state law claims – into this Court in a case already closed at its request is inappropriate and deceptive.

Ms. Denson therefore respectfully requests that the Court abstain from deciding the motion to confirm the arbitration award, or, if the Court prefers, convene a conference with counsel prior to the January 4, 2019 opposition date for the motion.

¹ This contrasts with this Court's decision in *Zimmerman v. UBS AG*, No. 17-CV-4503 (JMF), 2018 WL 4054860, at *6 (S.D.N.Y. Aug. 24, 2018), in which the Court stayed the arbitration at issue and retained jurisdiction. *Katz* and *Zimmerman* show a stay to be preferable to dismissal because a stay allows a court to continue its supervision of the arbitration compelled to the extent provided by law, such as "to confirm, vacate or modify an arbitral award." *Katz*, 794 F.3d at 346 n.7 (emphasis added).

² The OSC and underlying motion cover a Partial Award issued in the arbitration on October 29, 2018, in which the arbitrator made the substantive determinations challenged on the motion to vacate, and any subsequent award that might be made in the arbitration. Exhibit A. On December 12, 2018, Ms. Denson informed the State Court of the arbitrator's final award and requested it be vacated with the partial award. Exhibit B. The Campaign filed no objection to the State Court's review of the Final Award pursuant to the OSC.

The Honorable Jesse M. Furman
December 24, 2018
Page 3

Respectfully submitted,



David K. Bowles
The Law Offices of David K. Bowles, PLLC

cc: Lawrence Rosen, Esq. (by email and ECF)
Patrick McPartland, Esq. (by email and ECF)
Maury B. Josephson, Esq. (by email and ECF)