

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
)
) CIVIL ACTION NO.
v.) 73 C 1529 (EN)
)
)
FRED C. TRUMP, DONALD TRUMP)
and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
)
)

AFFIDAVIT

WASHINGTON)
)
 ss
DISTRICT OF COLUMBIA)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section of the Civil Rights Division, Department of Justice and in supervisory charge of the above-styled litigation on behalf of the United States. I make this affidavit in support of our request that an Order be entered herein directing expedited discovery and designating an officer of this Court to supervise depositions with respect to defendants' motion to hold one of plaintiff's attorneys in contempt and for a cease and desist order against the United States.

2. On or about July 26, 1974, defendants filed with this Court a Notice of Motion praying that Donna Goldstein, one of plaintiff's counsel in this action, be adjudged in contempt of this Court for alleged coercion and threats against

prospective witnesses, and that the United States be ordered to cease and desist from such alleged unlawful conduct. The Notice of Motion is purportedly supported by the affidavits of Carol R. Falcone and Thomas Miranda, former employees of defendants, and by the signed but unsworn statements of two former employees, Paul and Paula Ziselman. Also attached to the motion is an affidavit by Roy Cohn, one of defendants' counsel, which purports to describe a number of events at which he was not present and which did not occur in the manner described by him. The papers filed on behalf of defendant call into question the professional conduct and reputation of Donna F. Goldstein, an attorney on the staff of this Section, with whom I am well acquainted and whom I know to have an excellent reputation, both with respect to her legal ethics and in relation to her professional competence. I am satisfied that the allegations of improper conduct against her are without foundation and therefore constitute an abuse of the processes of this Court.

3. In view of the nature of the allegations against Ms. Goldstein, the United States requests that the matter be expeditiously handled in accordance with 42 U.S.C. 3614 so that the factual issues may be resolved and Ms. Goldstein's reputation cleared. We further ask that the evidentiary hearing be held on August 16, 1974 as scheduled.

4. In order to assure that no "surprise" witnesses be called by defendant to further attack Ms. Goldstein's reputation,

plaintiff has propounded brief interrogatories to defendants inquiring into the identity and prospective testimony of all witnesses to alleged misconduct by agents of the United States. Adequate preparation for the hearing will not be possible unless this information is disclosed to the United States in time to take the depositions of possible witnesses in advance of the hearing. Paragraph 3 of the affidavit of Roy Cohn states that defendants have attached the statements of only "some" former employees as to whom Ms. Goldstein is alleged to have acted improperly, which suggests that there are supposed to be others. Accordingly, we ask that the defendants be required to answer these interrogatories within five days, unless defendants voluntarily disclose this information to plaintiff earlier.

5. The essential thrust of defendants' allegations on this motion is that Ms. Goldstein used threats and other unfair tactics in an attempt to influence the testimony of prospective witnesses. The position of the United States is that the allegations of misconduct on Ms. Goldstein's part are false and scurrilous. In order to resolve this issue, it is essential that the testimony of all witnesses, both on deposition and at the hearing, be free of threats, undue influence, or other interference from the parties or from their counsel, and that each party's right to examine and cross-examine witnesses without interruption or disruption be fully protected.

6. The most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of the Court. At least one of the witnesses to be deposed -- Mr. Miranda -- has expressed fear of reprisal from defendants on two separate occasions, to attorneys for plaintiff -- once to Elyse Goldweber and once to Donna Goldstein, as reflected in their respective affidavits. At a hearing on May 3, 1974, Honorable Vincent Catoggio, United States Magistrate, reprimanded counsel for defendants for failing to carry out their responsibilities relating to discovery and to expedite the action. Accordingly, the most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of this Court.

WHEREFORE I respectfully request on behalf of the United States that an Order to Show Cause be entered herein as prayed for. No previous application has been made for the relief here requested.

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 2 day of August, 1974.

Valerie Luther
NOTARY PUBLIC

My commission expires: January 31, 1977