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Statement re Summer Zervos v. Donald J. Trump

Today we filed our opposition brief to defendant President Trump's motion to dismiss the defamation case filed by our client, Summer Zervos, in New York on January 17, 2017 against Donald J. Trump for statements which we allege that he made about Ms. Zervos prior to his becoming President of the United States.

Our brief argues that President Trump's claim that a state court cannot consider a damages claim against him for unofficial conduct in which he engaged before taking office is baseless. Our brief explains that both the U.S. Supreme Court and New York's highest court held more than a century ago that state courts have jurisdiction to adjudicate damages claims against federal officials. Our brief shows that the Supreme Court held in *Clinton v. Jones* that a President has no immunity for his unofficial acts, and rejected the argument that having to defend a civil damages suit would result in "burdens [being] placed on the President that will hamper the performance of his official duties." Our brief further argues that "[j]ust as there was no basis to be concerned that the federal district court would manage the *Jones* case in a way that would hamper the President's ability to do his job, there is no basis for this Court to be concerned that its management of this case will prevent Defendant from doing his job."

In addition, our brief notes that "Defendant continues to insist that Ms. Zervos's statements about his unwanted sexual groping of her were false statements of fact, yet contends that his statements – which derided Ms. Zervos's statements as lies – merely 'reflect opinions and rhetoric.'" The brief goes on to argue that "Defendant is wrong. The Court of Appeals has made clear that a defendant's statements that a plaintiff lied about reports of sexual assault or abuse are defamatory. *Davis v. Boehm*, 24 N.Y.3d 262, 270-73 (2014)."

Further, we argue that "Defendant's attacks were defamatory because his statements were factual, provably false, and fundamentally debased Ms. Zervos's reputation. His brutalizing of her a second time — this time falsely condemning her to the world as a liar for having the temerity to reveal his earlier unwanted sexual groping of her body – directly caused serious injury." Finally, our brief argues that "[w]ords matter," that President Trump is "not above the law," and that "Ms. Zervos, a woman and private citizen who had the fortitude to speak the truth, has the right to vindicate her reputation."

We look forward to President Trump's reply and the hearing that we expect the Court will schedule for oral arguments in this case.

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Representing Summer Zervos
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