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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 STEPHANIE CLIFFORD a.k.a.
14 STORMY DANIELS a.k.a. PEGGY
15 PETERSON, an individual,

16 Plaintiff,

17 vs.

18 DONALD J. TRUMP a.k.a. DAVID
19 DENNISON, an individual, ESSENTIAL
20 CONSULTANTS, LLC, a Delaware
21 Limited Liability Company, MICHAEL
22 COHEN and DOES 1 through 10,
23 inclusive,

24 Defendants.

25 CASE NO.: 2:18-cv-02217-SJO-FFM

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27 **PLAINTIFF STEPHANIE
28 CLIFFORD'S NOTICE OF MOTION
AND MOTION FOR
RECONSIDERATION IN PART OF
ORDER IMPOSING STAY**

*[filed concurrently with Memorandum of
Points and Authorities in Support of
Motion and Declaration of Michael J.
Avenatti]*

Hearing Date: June 21, 2018

(Pursuant to Court's Order Dkt. No. 55)

Hearing Time: 1:30 p.m.

Location: Courtroom 10C

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD**

2 **PLEASE TAKE NOTICE** that on June 21, 2018, at 1:30 p.m. in Courtroom 10C
3 of the above entitled Court, located at 350 West First Street, Los Angeles, California,
4 Plaintiff Stephanie Clifford (aka Stormy Daniels) ("Plaintiff") hereby moves pursuant to
5 Local Rules 7-18 for reconsideration, in part, of the Court's April 27, 2018 order
6 imposing a stay of this case for a period of 90 days. Specifically, Plaintiff does not seek
7 reconsideration of the Court's order staying discovery as to Defendant Michael Cohen.
8 Plaintiff, however, seeks to modify the stay order by lifting the stay as to all other aspects
9 of this case.

10 Plaintiff makes this motion based on the emergence of new facts and
11 circumstances that could not have been discovered before the issuance of the Court's
12 order. These new facts, set forth in detail in Plaintiff's accompanying Memorandum of
13 Points and Authorities, consist of statements made directly by Defendant Donald J.
14 Trump and his attorney Rudolph Giuliani demonstrating that Mr. Trump has personal
15 knowledge of the Settlement Agreement at issue in this action and the \$130,000 payment
16 made thereunder. Plaintiff's motion should be granted for at least the following reasons:

17 1. The new facts call into question whether Mr. Cohen's Fifth Amendment
18 rights relating to the matters at issue in this case are as compelling as previously argued
19 by defendants Mr. Trump, Essential Consultants, LLC ("EC"), and Mr. Cohen
20 (collectively, "Defendants"). Statements from Mr. himself, along with Mr. Giuliani
21 speaking on authority of Mr. Trump, suggest that the criminal proceeding in New York
22 pertain to Mr. Cohen's "businesses" (not anything relating to this lawsuit) and that the
23 \$130,000 payment to Plaintiff did not result in campaign finance violations.

24 2. The new developments in the case make clear that less drastic measures than
25 a complete stay of all proceedings are available. Mr. Cohen will not be deposed while
26 the existing stay is in place. Plaintiff has agreed to only pursue a deposition of Mr.
27 Trump—who is not reportedly under criminal investigation for any of his dealings
28 relating to the facts of this case. Plaintiff is also agreeable to permit Defendants to rely

1 on Mr. Cohen's April 2 and 9 declarations during the existing stay. All of this evidence,
 2 along with testimony of other witnesses previously identified and the documents that will
 3 be available in discovery, is more than adequate to enable Defendants to mount a defense
 4 to Plaintiff's first cause of action.

5 3. Mr. Trump and Mr. Giuliani's new revelations concerning the Settlement
 6 Agreement and \$130,000 payment demonstrate that Defendants Trump and EC are fully
 7 equipped to defend Plaintiff's declaratory judgment claim even without Mr. Cohen.
 8 Further, because Plaintiff agrees a stay should be maintained as to Mr. Cohen's
 9 deposition for the remaining 90 days covered by the Court's prior order, Mr. Cohen will
 10 not have to assert the Fifth Amendment privilege on specific questions. Therefore, the
 11 second Keating factor—namely, the burden on Defendants—weighs decidedly in favor of
 12 denying the stay.

13 4. Because Plaintiff will not be seeking a deposition of Mr. Cohen during the
 14 remainder of the 90-day stay period, the third Keating factor regarding convenience of
 15 the court in the management of its cases and the efficient use of judicial resources weighs
 16 in favor of denying a stay. The Court's previously stated concerns about inefficiencies
 17 associated with compelling Mr. Cohen to be deposed when he would merely assert Fifth
 18 Amendment objections, and the attendant discovery and other disputes associated with
 19 the deposition no longer apply. Further, because Plaintiff will not object to Defendants'
 20 use of Mr. Cohen's declarations to support their two existing motions, the Court's interest
 21 in clearing its docket is served by hastening the resolution of these motions.

22 5. Finally, Mr. Trump's renewed public threat to obtain damages from
 23 Plaintiff, and his disparagement of Plaintiff and her story as "false and extortionist"
 24 underscore Plaintiff's strong interest in proceeding expeditiously with this litigation and
 25 the prejudice to her of a delay. The first Keating factor, therefore, also weighs in favor of
 26 Plaintiff.

27 This motion is based on this Notice, the accompanying Memorandum of Points and
 28 Authorities, the accompanying Declaration of Michael J. Avenatti, the prior briefing and

1 declaration filed by Plaintiff opposing Defendants' motion for a stay, the complete files
2 and records in this action, and upon such oral and documentary evidence as may be
3 allowed at the hearing of this motion.

4 On May 18, 2018, Plaintiff's counsel conferred with Brent Blakely, counsel for EC
5 and Mr. Cohen regarding the content of Plaintiff's motion. [Declaration of Michael
6 Avenatti, ¶9.] On May 23, 2018, Plaintiff's counsel conferred with Charles Harder and
7 Ryan Stonerock, counsel for Mr. Trump, regarding the content of Plaintiff's motion.
8 Counsel was unable to reach an agreement with Defendants, and all Defendants indicated
9 they would oppose Plaintiff's motion. [Id.] All counsel agreed to the briefing schedule
10 and hearing date for the motion as set forth in the stipulation and proposed order
11 approved by the Court. [Id.; Dkt. No. ___.] All counsel further agreed that the parties had
12 adequately met and conferred regarding Plaintiff's motion. [Id.]

13 Dated: May 23, 2018

14 AVENATTI & ASSOCIATES, APC

15 By: /s/ Michael J. Avenatti
16 Michael J. Avenatti
17 Attorneys for Plaintiff Stephanie Clifford
18 a.k.a. Stormy Daniels a.k.a. Peggy Peterson

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