

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, SECOND DEPARTMENT

PROJECT VERITAS,

Plaintiff,

v.

THE NEW YORK TIMES COMPANY, MAGGIE
ASTOR, TIFFANY HSU, and JOHN DOES 1-5,

Defendants.

Appellate Division Docket No. 2021-09551

Westchester County Index No.
63921/2020

~~PROPOSED~~ ORDER TO SHOW
CAUSE

Upon the annexed Affirmation of Jay Ward Brown of Ballard Spahr, counsel for Defendant-Appellant The New York Times Company, (“The Times”), dated December 27, 2021, the exhibits attached thereto, and the accompanying memorandum of law in support of the request for emergency relief pursuant to CPLR 5518, CPLR 5519(c), this Court’s inherent authority, and CPLR 5701,

LET PLAINTIFF-RESPONDENT PROJECT VERITAS SHOW CAUSE BEFORE THIS COURT, at the courthouse thereof, located at 45 Monroe Place, Brooklyn, New York, 11201, on the 14th day of January, 20 22, at 9:30 A.m., or as soon thereafter as counsel may be heard, why an order should not be made and entered:

1. Vacating the Decision & Order in its entirety (except for the provision granting leave for the filing of a brief amicus curiae) (the “Decision”) or, in the alternative, staying the effect of that Decision in its entirety pending this Court’s resolution of The Times’s appeal therefrom, and expediting said appeal;

2. Granting The Times leave to appeal the Decision to this Court, to the extent that the Decision is not appealable as of right pursuant to CPLR 5701(a)(2)(i); and

3. Granting such other and further relief as to the Court may seem just and equitable.

THEREFOR
SUFFICIENT CAUSE TO DENY FROM APPEARING, it is

pending the hearing and determination of this motion, enforcement of **ORDERED** that the provisions of the Decision requiring (1) The Times “and its agents, employees, legal counsel or other persons under its control” to “immediately turn over to the plaintiff Project Veritas’ counsel all physical copies of the subject legal memoranda prepared by Project Veritas’ counsel, Benjamin Barr, that are in its control or possession,” (2) The Times “and its agents, employees, legal counsel or other persons under its control” to “immediately delete/destroy copies of the legal memoranda prepared by Project Veritas’ counsel, Benjamin Barr, from any computer, cloud server or other data collecting or disseminating sources, including but not limited to, all attachments to emails and cloud server devices, and to remove such documents from the internet and any web site or servers over which they have control,” (3) The Times’s counsel and the defendants to “use best efforts to retrieve copies of the legal memoranda prepared by Project Veritas’ counsel, Benjamin Barr, provided to third parties,” and (4) The Times to “file with the court within ten (10) days of service with notice of entry of this order an affidavit/affirmation confirming its compliance hereto,” ~~are hereby stayed; pending resolution of this Order to Show Cause;~~ and it is further ,

~~**ORDERED** that all other provisions of the Decision remain in full force pending further order of this Court, including specifically the provisions that (1) “the attorney-client memoranda that are the subject of th[e] order shall not be shown, transmitted, or disseminated in any manner to any persons absent written order of this Court,” (2) “the defendant New York Times’ counsel and the defendants herein are directed not to use the legal memoranda prepared by Project Veritas’~~

~~counsel, Benjamin Barr, or information obtained from those documents in this action for any purposes whatsoever,” (3) “the defendant New York Times’ counsel and defendants herein are directed to use their best efforts to retrieve copies of the legal memoranda prepared by Project Veritas’ counsel, Benjamin Barr, provided to third parties, including but not limited to, Bill Grueskin,” (4) “all counsel are directed to file with the court, an affirmation setting forth any documents filed on NYSCEF containing excerpts of the subject attorney-client memoranda, and submit copies of the documents with proposed redactions, for consideration by the court for entry of an appropriate sealing order,” and (5) “the motion for leave to file brief of Amici Curiae in support of the New York Times (Motion Seq. No. 9) is granted.”~~

ORDERED that service of a copy of this order to show cause and the papers upon which it was made upon counsel for Plaintiff-Respondent by personal delivery, office delivery, overnight delivery service or email and by uploading this order to show cause to NYSCEF under the Appellate Division module ~~delivery service, or email~~ on or before December 29, 2021 ~~xxxxxxxxxxxxxxxxxxxx20xxxx~~ shall be deemed sufficient service thereof.

DATED: Brooklyn, New York

December 28, 2021



Hon. William G. Ford
Associate Justice
Appellate Division, Second Department

NOTE: There is no appearance on the return date. The motion is decided on papers alone.