Hal S. Shaftel
Maura E. Miller
Adam Kirschbaum
GREENBERG TRAURIG, LLP
One Vanderbilt Avenue
New York, NY 10017
(212) 801-9200
shaftelh@gtlaw.com
maura.miller@gtlaw.com
kirschbauma@gtlaw.com

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
ELETSON HOLDINGS INC.,	Case No.: 23-10322 (JPM)
Debtor[1]	

APARGO LIMITED, FENTALON LIMITED, AND DESIMUSCO TRADING LIMITED'S REPLY IN FURTHER SUPPORT OF THEIR MOTION FOR A PROTECTIVE ORDER/TO QUASH

[1] The Court has ordered the following footnote to be included in this caption: "Prior to November 19, 2024, the Debtors in these cases were: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. On [March 5, 2025], the Court entered a final decree and order closing the chapter 11 cases of Eletson Finance (US) LLC and Agathonissos Finance LLC. Commencing on [March 5, 2025], all motions, notices, and other pleadings relating to any of the Debtors shall be filed in the chapter 11 case of Eletson Holdings Inc. The Debtor's mailing address is c/o Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119." Bankr. ECF 1515 ¶ 7.

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Apargo Limited, Fentalon Limited, and Desimusco Trading Limited (collectively, the "Preferred Nominees") hereby submit this reply in further support of their motion ("Motion") (BK ECF 1715) to quash three Rule 2004 subpoenas ("Subpoenas") issued by Reorganized Eletson Holdings Inc. ("Holdings") to the Preferred Nominees, respectively, and in reply to Holdings' Opposition ("Opp.") (BK ECF 1778) to the Motion.

I. PRELIMINARY STATEMENT

1. In disregard of proper procedure and basic principles of discovery efficiency, burden and proportionality, Holdings presses the broad Subpoenas under Rule 2004 even though they are impermissibly duplicative of discovery already made available, including from the Preferred Nominees (as well as other parties); even though they constitute an improper end-run around the rules governing discovery in adversary cases, when at least two pertinent adversary proceedings are pending involving Holdings; and even though the Preferred Nominees have not played an operational role with any relevant entities, including in particular Eletson Gas LLC ("Gas"). Having obtained authorization for the Subpoenas through an *ex parte* application, Holdings in the face of scrutiny from the Preferred Nominees, as recipients of the Subpoenas, now fails to satisfy its burden to identify a justification for them.

2. As pretextual grounds for the Subpoenas, Holdings creates a strawman by referencing unspecified misconduct by so-called "Former Insiders", which is *not* even defined to include the Preferred Nominees, but rather vaguely covers "former insiders, equity holders, and their respective affiliates." (Opp. ¶ 2). According to Holdings, it is pursuing the Subpoenas because it allegedly "needs to understand the extent of the Former Insiders' misconduct, what the Former Insiders have done with Holdings' property, and what other improper gambits the Former Insiders have planned or contemplated." *Id.* While long on rhetorical flourishes, Holdings actually does *not* and cannot provide any sound reason to conclude that that the Preferred Nominees -- given their

limited role and all the discovery that they and other parties already have provided -- possess additional information that would be meaningful and relevant in any way. Rather, the broad Subpoenas comprise an effort to further harass the Preferred Nominees by forcing them to incur unnecessary costs, revisit duplicative discovery and/or assume the burden of collecting and providing irrelevant information or seeking it from other sources. Indeed, Holdings wrongly seeks to do so outside the rules applicable to discovery in adversary proceedings, which are the rules that properly govern, because Holdings well knows it cannot justify the discovery being sought if tested against fundamental principles of relevance, efficiency, burden, proportionality and economy, as well as the precedent applying those principles.

II. ARGUMENT

A. The Motion is Procedurally Proper

3. To distract from the substantive defects of the Subpoenas, Holdings begins its Opposition by arguing the Motion is "procedurally improper" because the parties did not meet and confer in advance. (Opp. ¶ 10). However, in granting Holdings' *ex parte* application for authorization to serve the Subpoenas, the Court expressly provided:

> Any subpoena issued pursuant to this Order shall provide at least fourteen days' notice to the recipient to provide the recipient an opportunity to object in writing to the subpoena or to file any written motion with the Court.

(BK ECF 1698 at 2). Given the *ex parte* procedural posture, the short-time frame (for which the Preferred Nominees did *not* seek any extension), and the explicit authorization to file a motion, there was no applicable meet and confer requirement. Plus, the issue is now moot. Holdings omits in its Opposition the fact that that counsel for Holdings and counsel for the Preferred Nominees in

fact discussed the Subpoenas on Monday, July 21, 2025, but could not resolve or narrow the dispute. As is clear, any discussion prior to filing the motion would have been equally fruitless.[2]

B. The Pending Proceeding Rule Bars the Subpoenas

4. By burying the issue at the end of its brief (Opp. ¶¶ 24-28), Holdings evidently attempts to minimize its improper tactic of pursuing Rule 2004 Subpoenas as a means to avoid serving the discovery in ongoing adversary litigation, where different rules apply to test the propriety of the requested discovery against standards as defined in extensive precedent of relevancy to identified claims, efficiency as to sources of information from which to obtain discovery, and evaluation of burden, proportionality, economy and sensible sequencing.

5. As much as Holdings seeks to skirt the rules and precedent that ought to govern the discovery sought by the Subpoenas, under the "pending proceeding" rule, "once an adversary proceeding or contested matter is commenced, discovery should be pursued under the Federal Rules of Civil Procedure and not by Rule 2004." *In re Enron Corp*., 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002); *In re Bennett Funding Group, Inc.*, 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996) ("The well recognized rule is that once an adversary proceeding or contested matter has been commenced, discovery is made pursuant to the Fed. R. Bankr. P. 7026 *et seq*., rather than by Fed. R. Bankr. P. 2004 examination); *In re Drexel Burnham Lambert Group, Inc*., 123 Bankr. 702, 711 (Bankr. S.D.N.Y. 1991) ("The cases are in agreement that once an adversary proceeding is in progress a creditor/party does not have a right to a 2004 examination."); *In re Transmar Commodity Grp.* 2018 Bankr. LEXIS 2473 (Bankr. S.D.N.Y. 2018) ("Rule 2004 examinations are

[2] Further, Holdings' reliance on a lone case regarding a meet and confer requirement, *Jason Morgan Trucking, LLC v. Progressive Com. Ins.*, No., 2025 WL 2062278 (E.D. Okla. July 23, 2025), is misplaced. *Jason Morgan Trucking*, is an out of Circuit decision that does not even involve Rule 2004 subpoenas. Nor, critically, did it involve an order granting permission to file a motion to quash within a defined timeframe without any meet and confer requirement included. Instead, *Jason Morgan Trucking* addressed a subpoena under Fed. R. Civ. P. 45, which implicate different rules and procedures than what applies to Rule 2004 subpoenas approved on an *ex parte* basis.

also not generally permitted once an adversary proceeding has been filed, as the greater protections of the Bankruptcy Rules 7026 through 7037, which are modeled on Fed. R. Civ. P. 26-37, then apply.").[3]

6. Here, there is not one, but there in fact are two pending proceedings for which any discovery directed against the Preferred Nominees should have been, and/or should be, brought so that it can be appropriately assessed under the governing Federal Rules of Civil Procedure. *In re Valley Forge Plaza Assocs.*, 109 B.R. 669, 675 (Bankr. E.D. Pa. 1990) ("Many courts have expressed distaste for efforts of parties to utilize [Rule] 2004 to circumvent the restrictions of the [Federal Rules of Civil Procedure] in the context of adversary proceedings or contested matters.").

7. *First*, when Holdings served the Subpoenas on June 20, 2025, discovery was ongoing in the litigation before the District Court addressing the validity of the Final Award in the JAMS arbitration. *See Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.,* Civil No. 23-cv-7331 (the "Arbitration Case"). Indeed, that case was filed almost two years earlier on August 18, 2023. Even though the Preferred Nominees intervened in the Arbitration Case on May 9, 2025, Holdings *never* served any document discovery in that proceeding, although it piggy-backed on the expansive discovery provided by the Preferred Nominees in response to discovery requests propounded by Levona Holdings Ltd. ("Levona"). Indeed, the Preferred Nominees have produced over two thousand pages of discovery in the Arbitration Case, all of which Holdings has received but never takes into account when pressing the Subpoenas.

[3] Additionally, Holdings does not distinguish any of the cases the Preferred Nominees cited regarding the pending proceeding rule. *E.g.*, *In re Int'l Fibercom, Inc*., 283 B.R. 290, 292 (Bankr. D. Ariz. 2002) ("The reason for the ["pending proceeding"] rule is to avoid Rule 2004 usurping the narrower rules for discovery in a pending adversary proceeding."); *Bennett Funding Group*, 203 B.R. at 29-30 (Rule 2004 discovery not appropriate where it would "unavoidably and unintentionally create a back door" to discovery in another proceeding).

8. *Second*, on July 30, 2025, Holdings initiated an adversary proceeding against multiple individuals and entities, which apparently includes the Former Insiders. *See*, Adversary Case Number 25-01120 (BK ECF 1747) (the "Adversary Proceeding")[4]. The Adversary Proceeding provides Holdings with an opportunity to serve discovery, which if anywhere, would be where it belongs. As pled, the Adversary Proceeding is directed at alleged misconduct on behalf of the so-called Former Insiders, who are the very parties concerning which discovery is sought pursuant to the Subpoenas. By extension, that discovery necessarily ought to occur as part of the very case relating to the justification for the requested discovery. However, since discovery in an adversary proceeding also proceeds pursuant to the Federal Rules of Civil Procedure, with its "greater protections," Holdings seemingly is making the same tactical choice there as it did in the Arbitration Case to seek to sidestep the rules – which is plainly improper. *In re Drexel Burnham* at 711.

9. Holdings claims it did not seek discovery in the Arbitration Case because had it done so it is "unlikely" the Preferred Nominees would have complied. (Opp. ¶ 26). This is an utter red herring. In response to expansive discovery requests, the Preferred Nominees produced over two thousand pages of documents. Further, in the Arbitration Case, the Preferred Nominees produced Vassilis Kertsikoff for deposition in both his personal capacity and as a representative for *each* of the Preferred Nominees. The deposition involved Mr. Kertsikoff's attendance for ten hours, during which he spent eight hours under oath testifying, including cross-examination by Holdings specifically. Further, productions from other parties in the Arbitration Case resulted in

[4] The Adversary Proceeding was filed on behalf of Eletson Holdings Inc., Eletson Corporation, Eletson Chartering Inc., EMC Investment Corporation, Kastos Special Maritime Enterprise, Fourni Special Maritime Enterprise, Kinaros Special Maritime Enterprise, Kimolos II Special Maritime Enterprise. The defendants are Vassilis Kertsikoff, Vasilis Hadjieleftheriadis, Lascarina Karastamati, Konstantinos Hadjieleftheriadis, Ioannis Zilakos, Emmanuel Andreoulakis, Adrianos Psomadakis, Panos Paxinos, Eleni Giannakopoulou, Niki Zilakou, Lassia Investment Company, Glafkos Trust Company, Family Unity Trust Company, Elafonissos Shipping Corporation, Keros Shipping Corporation, Reed Smith LLP, Lex Group Liberia LLC, Daniolos Law Firm, John Markianos-Daniolos, and Rimon P.C.

tens of thousands of pages of documents being produced, including by Reed Smith, which produced over 150,000 pages of documents, including voluminous documents from Gas. Those productions are squarely responsive to requests as set forth in the Subpoenas; yet, again, Holdings nowhere takes that previous discovery into account.

10. Although Holdings conveniently relied on Levona to serve the discovery, they were the beneficiaries of all the information the Preferred Nominees (and other parties) produced in the Arbitration Case. After receiving all of those documents, Holdings never moved for additional discovery. As explained below, numerous requests in the Subpoenas are already encompassed by the prior discovery responses in the Arbitration Case.

11. While Holdings already has obtained the deposition testimony of Mr. Kertsikoff, Laskarina Karastamati and Vasilis Hadjieleftheriadis, who at times have acted as representatives of two of the Preferred Nominees, respectively, expressed that they were intimidated to appear in person in New York for their depositions. Ms. Karastamati stated that she "fe[lt] under threat that [Holdings or Levona] would use the occasion of an appearance in New York to serve new legal papers or entangle me in further legal proceedings" (ECF 509 ¶ 4) and that "Messrs. Kertssikoff and Hadjieleftheriadis, share these deep concerns as well." *Id.* The threat arose from the fact that counsel for Holdings stated that his client was "exploring … whether warrants may be able to be issued" presumably against the Ms. Karastamati and Mr. Hadjieleftheriadis. (BK ECF 1709). Given that intimidation, counsel for the Preferred Nominees requested that Holdings and Levona refrain, in compliance with the law, [5] from serving the Preferred Nominees while they appeared for depositions. However, Holdings refused to do so, resulting in the witnesses declining to travel

[5] *See Norex Petroleum Ltd. v Access Indus., Inc.,* 620 F Supp 2d 587, 590 (S.D.N.Y. 2009) (*quoting Lamb v. Schmitt*, 285 U.S. 222, 225 (1932)) (explaining "'[t]he general rule [is] that witnesses, suitors, and their attorneys, while in attendance in connection with the conduct of one suit, are immune from service of process in another'").

to New York (while agreeing to be deposed remotely) given that they faced the prospect of warrants and potential complications that existed in the U.S.[6]

12. Indeed, their concerns proved entirely well founded. After Mr. Kertsikoff left his deposition in New York after ten hours in the office building of Levona's counsel, Holdings improperly attempted to serve him with the pleading in the Adversary Proceeding as he was leaving the lobby.[7] Those tactics only corroborate the *bona fides* the decisions made by Ms. Karastamati and Mr. Hadjieleftheriadis regarding to not travel to New York.

C. No Good Cause Exists for the Subpoenas

13. Although Holdings argues in conclusory fashion that it "plainly satisfies the good cause standard under Rule 2004", it bases its claim on the alleged behavior of its strawman, the "Former Insiders", without connecting it to the Preferred Nominees in any way. Repeatedly, Holdings resorts to allegations against the Former Insiders, who apparently are included as named defendants in the Adversary Proceeding, but *not* allegations about the Preferred Nominees themselves.[8]

14. Holdings attempts to justify the Subpoenas by trying to link the Preferred Nominees to the Former Insiders, alleging, in wholly conclusory fashion, that the Preferred Nominees "have been instrumental to the Former Insiders' schemes" without identifying what any of those alleged

[6] As neither Ms. Karastamati or Mr. Hadjieleftheriadis are directors or officers of the Preferred Nominees, they could not be commanded to appear for depositions. *See E,g., Schindler El. Corp. v. Otis El. Co*., 2007 U.S. Dist. LEXIS 44200, at *5 (S.D.N.Y. June 15, 2007) ("A corporate employee or agent who does not qualify as an officer, director, or managing agent is not subject to deposition by notice."); *id* at *6 ("such an employee is treated as any other non-party witness, and must be subpoenaed pursuant to Rule 45 of the Federal Rules of Civil Procedure; or, if the witness is oversees, the procedures of the Hague Convention or other applicable treat must be utilized.")

[7] This firm does not represent Mr. Kertsikoff individually nor is he a party to this motion. Nothing herein addresses, let alone waives, any positions, rights, or claims of Mr. Kertsikoff with respect to the attempted service on him.

[8] Without link to the Preferred Nominees, Holdings vaguely refers to: "the Former Insiders have[ing] misdirected Holdings' property." (Opp. ¶ 13); the "shell games . . . the Former Insiders have already played" (*id.* ¶ 15); the "Former Insiders' scheme to obstruct the Plan" (*id.* ¶ 16); the "obstructionist tactics of the Former Insiders" (*id.* ¶ 17); and the "Former Insiders' misconduct" (*id.*).

schemes are (besides one vague reference to a "scheme to obstruct the Plan") or how the Preferred Nominees are allegedly involved in them. *Blodgett v. Siemens Indus.*, 2016 U.S. Dist. LEXIS 105143, * 10 (E.D.N.Y. 2016) ("conclusory statement is insufficient to compel the discovery sought"). Perhaps recognizing that its entire good cause argument for discovery from the Preferred Nominees is based on the alleged activities of the strawman it created, Holdings attempts to salvage that argument by adding *one sentence*—that its "also investigating potential claims" against the Preferred Nominees; yet, it provides no explanation whatsoever of what those claims might be.

15. Holdings also seems to suggest it has good cause for the Subpoenas because the Preferred Nominees are "in violation of the Stay Relief Order" for allegedly "improperly" changing the share registry. (Opp ¶ 16). However, as the Preferred Nominees advised the Court (BK ECF 1771), subject to the Preferred Nominees appeal rights, they complied with the Court's recent order regarding the share registry. It is thus wrong to argue the Preferred Nominees are in violation of that order. No issue thus exists for which discovery is warranted.

16. The Preferred Nominees already have provided discovery in this proceeding as well as discovery in the Arbitration Case, including thousands of pages of documents and the deposition of a corporate representative for each entity. Still, Holdings presses the Subpoenas, without identifying any proper purpose for its requests. This is an improper use of Rule 2004 as "Rule 2004 examinations cannot be used for purposes of abuse or harassment, or in furtherance of party's own interests rather than the interests of the estate." *In re Waddell*, 2025 Bankr. LEXIS 740, *20 (Bankr. S.D.N.Y. 2025) (denying request for rule 2004 subpoena where, like here, the "request [was] to essentially rehash matters already addressed during the administration of the case [which] demonstrates it is not brought to advance legitimate bankruptcy purposes.").

17. To try to bolster its argument, Holdings resorts to inapposite caselaw. Holdings cites *In re Toft*, 453 B.R. 186, 198 (Bankr. S.D.N.Y. 2011), but *Toft* does not even involve a Rule 2004 subpoena. In all events, the discovery sought in *Toft* instructively was denied. In *Matter of Sutera*, 141 B.R. 539, 542 (Bankr. D. Conn. 1992), unlike here, there was "neither an adversary proceeding nor a contested matter" (*id.* at 541) ongoing while here there are two. Holdings also relies on *In re Gawker Media LLC*, No. 16-11700 (SMB), 2017 WL 2804870, at *6 (Bankr. S.D.N.Y. June 28, 2017), which allowed a rule 2004 examination to proceed against one individual, but instructively denied the request with respect to another because there was no showing that "hardship or injustice" would result if the request was denied. *Id.* at * 21. Here, besides a rote recitation of the words "hardship" and "injustice" in laying out the rule 2004 standard, Holdings has not made (nor even attempted to make) any such a showing.

D. The Subpoenas Are Unduly Burdensome

18. Holdings begins its argument regarding undue burden by claiming that the Preferred Nominees have not explained "*why* or *how* the Subpoenas pose an undue burden." However, it cites to certain of the very paragraphs of the Motion (¶¶ 17-23) where the Preferred Nominees do just that—explain why and how the Subpoenas present an undue burden with respect to both the document requests and the requested depositions.

Document Requests Are Both Redundant and Facially Overbroad

19. As described below, the document requests in the Subpoenas suffer from three overriding deficiencies that render them improper.

20. *First,* the Subpoenas are composed of substantially redundant requests that seek the production of documents already produced by the Preferred Nominees (or other parties). Indeed, Holdings essentially acknowledges the overlap between the Subpoenas and the discovery requests

in the Arbitration Case and tries to overcome the defect by conceding that "if the Court were to apply the pending proceeding rule" it should apply it to "those document requests that directly concern the Arbitration." (Opp. ¶ 28). Even, however, applying Holdings' own standard to the Subpoenas, virtually all the requests or at least portions of all of them should be barred.[9]

21. *Second,* it is inherently burdensome for the Preferred Nominees to address document requests that should be directed to other parties. In the Motion, the Preferred Nominees explained that "many requests . . . seek documents pertaining to the finances (including bank accounts) and business activities *of parties other than the Preferred*" Nominees (Motion ¶ 22) (emphasis added) and that they were "not appropriate, efficient sources of information regarding the details of other parties and their activities [and that] [d]emands for information about other parties should be addressed to them as they are obviously direct, superior sources of information." *Id.* No basis exists whatsoever to require the Preferred Nominees, if that is what Holdings seeks to do, to canvas nonparties and solicit their cooperation to the extent they have responsive documents. Of course, it is the responsibility of Holdings to do so directly rather than indirectly have the Preferred Nominees do it for them. Likewise, the Preferred Nominees explained that the Subpoenas were unduly burdensome because they requested information regarding legal proceedings the Preferred Nominees were not even a party to. Requests like these, seeking information to which the Preferred Nominees have no better access to than does Holdings are

[9] Undeniably there is significant overlap in a multitude of respects between the Subpoenas and the document discovery served on the Preferred Nominees (and on other parties) in the Arbitration Case. In response, just by way of a few examples, the Preferred Nominees alone produced over two thousand pages of documents, all which Holdings received. For example, Request No. 2 from the Subpoenas seeks "All Documents and Communications regarding the Preferred Shares…" while Request No. 9 seeks "All Documents and Communications regarding any proceedings . . . concerning the Preferred Shares…" Holdings makes these requests even though, Request No. 4. from the document requests in the Arbitration Case was almost identical, seeking "All Documents and Communications Concerning the Preferred Shares…" Meanwhile, Request No. 11 in the Subpoenas seeks "All Documents and Communications regarding . . . the Vessels" which overlaps with Request No. 8 from the documents requests in the Arbitration Case, which sought "All Documents and Communications concerning the value of the Vessels…"

unduly burdensome. Similarly, Forcing the Preferred Nominees to compile court filings from various dockets that Holdings can likewise access for themselves is an undue burden.

22. *Third*, the mere fact that the Subpoenas seek "all" documents concerning broad categories, standing alone, is inherently overbroad and constitutes a facial deficiency. Although the Preferred Nominees have no reason to believe they possess additional relevant documents not already produced, the point is that requests seeking "all" documents relating to broad categories are as a matter of law, "overbroad, impermissible, and presumptively improper". *Oakley v. MSG Networks, Inc*. 2025 U.S. Dist. LEXIS 4963, * 7 (S.D.N.Y. Jan. 9, 2025). Thus, the Preferred Nominees should not face the presumptively improper burden of having to address and respond to clearly facially overbroad requests that as written are burdensome as a matter of law. *Hedgeye Risk Mgmt., LLC v. Dale*, 2023 U.S. Dist. LEXIS 116323, *4 (S.D.N.Y. July 5, 2023) (requests demanding "All Documents" are "often [] a red flag for overbreadth and undue burden."). At this point given all the prior discovery, asking for anything additional is nothing short of harassment.

23. Not only did the Preferred Nominees spend almost three pages of the Motion (¶¶ 17-23) explaining why and how the Subpoenas were unduly burdensome, but they also served Holdings with written responses and objections to the Subpoenas that detailed their objections to the document requests on a request-by-request basis.

24. While Holdings attempts to save face by claiming that the "information sought, comprised of 14 document requests, is tailored to Holdings' investigation of issues directly relevant to its own assets" (Opp. ¶ 19), Holdings is wrong as many of the requests relate to matters that undeniably are outside the purview of the bankruptcy estate. Holdings' reliance on *In re Beltway L. Grp., LLP*, 2017 WL 394343 (Bankr. D.D.C. Jan. 27, 2017) (another out of Circuit case) and *Pearson v. Trinklein*, 2022 WL 1315611, at *5 (S.D.N.Y. May 3, 2022) is sorely

misplaced. In *Beltway*, the Court found that the party that issued the subpoena and the party that received the subpoena had, unlike here, "clarified that the subpoena is pursued as discovery in a contested matter, not under Rule 2004." *Pearson* also did not involve Rule 2004; instead, the discovery was sought pursuant to 28 U.S.C. § 1782 and involved considerations of international comity as the requested discovery was for use in an action proceeding in the Cayman Islands.

25. None of the cases Holdings cites to in support of its burden argument involve requiring a deponent to undertake international travel. They are also inapposite because in *In re Vantage Petroleum Corp.*, 34 B.R. 650, 652 (Bankr. E.D.N.Y. 1983), the court did not even conduct a burden analysis; further, it was the bankruptcy trustee who issued the Rule 2004 subpoena, who the court recognized had "an affirmative duty" to do so (*id.* at 651); and the court in *In re Roman Cath. Church of Diocese of Gallup*, 513 B.R. 761, 767 (Bankr. D.N.M. 2014) stated that, "[t]he Court's ruling is not based on the burdensomeness of the requests" yet Holdings used it to support its argument on undue burden.

Requested Depositions Are Unnecessary and Clearly Burdensome

26. Holdings also argues that the Preferred Nominees have "not even attempted to carry [the] burden" that traveling to New York would be too difficult or costly and brushes aside the Preferred Nominees concerns about traveling to New York from Greece. (Opp. ¶¶ 21-22). However, the Preferred Nominees explained that they would face "significant and undue logistical burdens" from being "force[d] . . . to appear for in-person depositions" in New York City on what at the time of the Subpoenas service was just two weeks-notice. (Motion ¶ 23).

27. The burden is clear when one considers that just a few weeks ago, on July 30, 2025, counsel for Holdings was at Mr. Kertsikoff's deposition in the Arbitration Case and had an opportunity to question him—and did so—not only in his personal capacity but in his role as the

corporate representative for each of the Preferred Nominees. In fact, Mr. Kertsikoff was present for over ten hours and answered questions for eight hours that day on a wide range of subjects. Without identifying any basis or reason, Holdings now seeks to force the Preferred Nominees to present a witness(es) again and make that person or persons appear in the United States.

28. Even, however, if there was some basis to obtain testimony from the Preferred Nominees (there is *not*), settled principles of law mean that the Preferred Nominees cannot be compelled to appear in New York City as doing so would require the Preferred Nominees to travel more than 100 miles. In fact, they seek to force the witnesses to travel almost 5,000 miles for depositions, which is clearly improper. Fed. R. Civ. P. 45(c); *City of Almaty, Kazakhstan v Ablyazov*, 2017 WL 11699076, at *3 (S.D.N.Y. June 16, 2017) (an "individual defendant's preference for a situs for his or her deposition near his or her place of residence—as opposed to the judicial district in which the action is being litigated—is typically respected."); *Sec. and Exch. Commn. v. Aly*, 320 F.R.D. 116, 118 (S.D.N.Y. 2017) ("there is a rebuttable presumption that, absent special circumstances, the deposition of a defendant will be held where the defendant resides."); *Estate of Goldberg v. Goss-Jewett Co*. 2016 U.S. Dist. LEXIS 190579 (C.D. Cal. Feb. 22, 2016) (granting motion for protective order allowing intervenors to be deposed in a "location within the city that is the principal place of business for [each] company" instead of traveling as plaintiff demanded); *Snow Becker Krauss P.C. v Proyectos E Instalaciones De Desalacion, S.A*., 1992 WL 395598, at *2-3 (S.D.N.Y. Dec. 11, 1992) (granting protective order, invoking "Court's discretionary power to protect Defendants from the burden of producing employees for deposition in New York" when located in Spain.); *Boss Mfg. Co. v. Hugo Boss AG*, 1999 U.S. Dist. LEXIS 133 at *2-3 (S.D.N.Y. Jan 13, 1999) ("Employees of a corporate party not subject to notice deposition should be deposed where they work.").

29. The cases Holdings cites on burden related to a deposition also do not offer it any support. *In re Cnty. of Orange*, 208 B.R. 117, 121 (Bankr. S.D.N.Y. 1997) is inapplicable as the court there found no undue burden because, "each deposition will take one day and will be held *in the city where the deponents have their offices.*" (emphasis added) *Id.* at 121. Here, the depositions are set to occur in New York City while the requested deponents and their offices are 5,000 miles away, in Greece. Further, when considering travel time plus time for the actual depositions, each deposition would easily take multiple days of time. And, *In re Madison Williams & Co., LLC.* 2014 Bankr. LEXIS 50 at *7-8 (Bankr. S.D.N.Y. Jan. 7, 2004), the court quashed a subpoena because it did not "specify a location for the deposition within 100 miles of [the] Court" and found that therefore service was improper. *Doordash, Inc. v. City of New York* 754 F.Supp.3d 556 (S.D.N.Y. 2024) did not involve making a proposed deponent travel.

30. While Holdings may believe it is simple to travel from Greece to New York to be deposed, it is highly burdensome, as the cases cited above recognize. If depositions should occur (none should), and if they are to proceed in person, Holdings should travel for them, as it is the one who claims doing so provides "no basis" to claim a burden. (Opp. ¶ 22). While there is no reason to depose the Preferred Nominees at all, if there was, any deposition should take place in Greece or by remote means.

III. CONCLUSION

31. Accordingly, the Court should grant the Preferred Nominees' motion to quash the Subpoenas and obtain a protective order against the noticed depositions.

Dated: August 18, 2025

Respectfully submitted,

By: /s/ *Hal S. Shaftel*

GREENBERG TRAURIG, LLP

Hal S. Shaftel
Maura E. Miller
Adam Kirschbaum
One Vanderbilt Avenue
New York, NY 10017
(212) 801-9200
shaftelh@gtlaw.com
maura.miller@gtlaw.com
kirschbauma@gtlaw.com

Counsel for the Preferred Nominees