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August 21, 2025

VIA ECF AND EMAIL

The Honorable John P. Mastando III
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004

Re: In re Eletson Holdings, Inc., et al., Case No. 23-10322 (JPM)

Dear Judge Mastando:

We write on behalf of Eletson Holdings Inc. (“Holdings”). During the August 20, 2025, hearing before this Court, Holdings, among others, referred to an August 19, 2025, status conference held before the Honorable Lewis J. Liman in the case entitled *Eletson Holdings, Inc. v. Levona Holdings, LTD.*, Case No. 23-cv-07331 (S.D.N.Y.).

Attached hereto as **Exhibit A** is a transcript of that status conference (the “Transcript”). During the August 20, 2025, hearing, counsel for the Purported Nominees stated:

. . . I explained to the bankruptcy court that we do not represent Gas, and it is our understanding that while we have—my clients have rescinded those prior board and registry notices, that the management of Gas continues, I think I wrote, consistent with the status quo order.

Transcript, 19:4-9. Counsel for the Purported Nominees continued:

We don’t see any reason to disturb the ongoing management of the company [Gas]. We do believe that in terms of rationale, Justice Belen had it right. Whatever the corporate governance disputes that are happening, let us separate that from the ongoing day-to-day business operations of the company [Gas]. And until disturbed, those rulings by Justice Belen also do provide at least a binding contract between the parties, whatever effect they may or may not have with respect to third parties.

Transcript, 20:7-15.



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In colloquy with counsel to the Purported Nominees, the Court responded “Okay. So listen, I’ve heard you. The status quo injunction by the arbitrator is no longer in effect. The arbitrator is *functus officio*.” Transcript, 21:13-15.

Respectfully submitted,

/s/ Kyle J. Ortiz

Kyle J. Ortiz
Partner

EXHIBIT A

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ELETSON HOLDINGS INC., *et al.*,

4 Petitioners,

5 v.

23 Civ. 7331 (LJL)

6 LEVONA HOLDINGS LTD.,

7 Respondent.

Conference (Remote)

-----x

8 New York, N.Y.
9 August 19, 2025
10:03 a.m.

10 Before:

11 HON. LEWIS J. LIMAN,

12 District Judge

13 APPEARANCES

14 GOULSTON & STORRS PC
Attorneys for Petitioners
15 BY: JENNIFER B. FUREY, ESQ.

16 QUINN EMANUEL URQUHART & SULLIVAN, LLP
Attorneys for Respondent
17 BY: ISAAC NESSER, ESQ.

18 GREENBERG TRAURIG, LLP
Attorneys for Intervenors
19 BY: HAROLD S. SHAFTEL, ESQ.

1 THE COURT: Good morning. This is Judge Liman. Do I
2 have counsel for Levona on the line?

3 MR. NESSER: Yes, your Honor. Good morning.

4 THE COURT: And who is it for Levona?

5 MR. NESSER: It's Isaac Nesser at Quinn Emanuel.

6 THE COURT: Good morning, Mr. Nesser.

7 MR. NESSER: Good morning.

8 THE COURT: And do I have counsel on for the
9 intervenors?

10 MR. SHAFTEL: Yes, your Honor. It's Hal Shaftel from
11 Greenberg Traurig. Good morning.

12 THE COURT: Good morning.

13 Do I have any counsel for any other parties on the
14 line?

15 Okay. Mr. Nesser, we'll start with you.

16 MR. NESSER: Your Honor, I believe Eletson was on as
17 well. I'm sorry.

18 THE COURT: Okay. That's the reason why I asked if
19 anybody else was on the line.

20 MS. FUREY: Oh, and I—I'm sorry, your Honor. I did
21 not realize. I picked it up from speakerphone and did not
22 depress my mute button. Jennifer Furey. I'm from Goulston &
23 Storrs, representing Eletson Holdings and Eletson Corp.

24 THE COURT: Good morning, Ms. Furey.

25 MS. FUREY: Good morning.

1 THE COURT: All right. Mr. Nesser, why don't I start
2 with you. I approved the schedule for the filing of the
3 opening brief and the Rule 56.1 statement. I'd like to hear
4 from you what discovery, if any, is necessary for me to rule on
5 the anticipated motion. I realize that I still have some
6 requests with respect to the Eletson documents outstanding, but
7 I'd like to understand from you your view with respect to the
8 status of the case, where we are, what remains to be done, was
9 the foreign deposition done of Murchinson, and anything else
10 that you want me to know, leaving aside for a moment the
11 question of the status quo injunction.

12 MR. NESSER: Of course, your Honor. Thank you.

13 So in terms of depositions, Levona took four
14 depositions. We took a deposition of Mr. Kertsikoff, who is
15 also the designee for Apargo; we took the deposition of Reed
16 Smith, and the designee for that was Mr. Solomon; we took a
17 deposition of Marina Orfanoudaki, who is or was an employee of
18 Eletson; and we also deposed Castalia Advisors, Mr. Goodgal,
19 who were financial advisors to Eletson and appear on some of
20 the documents.

21 We noticed, as the Court, of course, is aware, two
22 additional depositions—one of Ms. Karastamati and one of
23 Mr. Hadjieleftheriadis. Neither of those appeared for their
24 depositions, notwithstanding the Court's two orders directing
25 both of them to show up. As a result of that, I did want to

1 make a note, your Honor, in addition to the vacatur brief, we
2 intend to file a motion for sanctions by virtue of the
3 nonappearance and other discovery violations that we believe
4 occurred in connection with the motions to compel and so forth,
5 and so those are—we expect that will be filed shortly as well.

6 So those are the depositions that we took.

7 THE COURT: And what relief are you seeking with
8 respect to the motion for sanctions? Does it include
9 dismissal?

10 MR. NESSER: Well, your Honor, there's nothing to
11 dismiss, as far as we understand, because it's just our
12 petition to vacate. But we are seeking preclusion sanctions.
13 We are seeking adverse inferences. There's also monetary
14 damages, you know, a monetary sanctions component by virtue of
15 some of the other violations.

16 THE COURT: Okay. Understood.

17 MR. NESSER: Thank you.

18 And so those are the depositions we've taken on their
19 side.

20 On the intervenor side, there's a deposition of
21 Mr. Spears, who was also a designee for Levona; there was a
22 deposition of Mr. Lichtenstein; there was a deposition in
23 Canada of Murchinson, and the designee was Mr. Bistricer, and
24 that's been completed. Your Honor is aware, they also—or your
25 Honor granted discovery to be issued for a deposition of

1 Mr. Kanelos. I don't know precisely what happened with that.
2 My understanding, secondhand, is that that was served, there
3 were discussions with Mr. Kanelos and his attorney, there was
4 some inability to reach agreement around logistics, and so as a
5 result of that, my understanding is that the intervenors have
6 elected not to proceed with the deposition and not to, you
7 know, move to compel that deposition, and so as I understand
8 it, that's just not going to happen, as things stand.

9 Those are the depositions that were noticed of which
10 we are aware, and so at this point we're not aware of any that
11 remain to be scheduled.

12 Of course, your Honor, relative to the point you made
13 at the very top, this is all putting aside the two outstanding
14 motions to compel that we have—the motion to compel the
15 documents from Eletson that it obtained on the Microsoft
16 server; and the motion to compel documents from Reed Smith
17 pursuant to the crime fraud exception. Our view, your Honor,
18 is that the existing record is sufficient to vacate the award,
19 but of course we continue to believe that both of those motions
20 are well founded and well framed and should be granted. We
21 weren't certain how your Honor was intending to proceed with
22 those, to the remainder of the petition, but I did want to note
23 that those are outstanding, as of course your Honor knows.

24 I think that's the update.

25 THE COURT: Okay. All right. Let me then hear from

1 you, Ms. Furey, whether you have anything to add, and then I'll
2 hear from Mr. Shaftel.

3 MS. FUREY: Your Honor, not at this time. We've
4 participated in all of the discovery but do not have any
5 outstanding requests ourselves, so discovery is—other than the
6 pending motions that Mr. Nesser just mentioned, discovery is
7 completed from our perspective.

8 THE COURT: Okay. All right. Mr. Shaftel, does
9 anything remain in terms of discovery from your perspective?

10 MR. SHAFTEL: Thank you, your Honor. In short, with
11 the various rulings on scope behind us, there are no open
12 discovery issues. I would like to just clarify or correct,
13 from our perspective, some of the descriptions that Levona
14 provided about the status and the background.

15 In terms of—let me first start, in terms of the Reed
16 Smith and the Microsoft motion practice, which we have not put
17 papers in on, we are not taking the position that any of the
18 briefing or the progress of the case ought to be slowed because
19 of that, so I think we are in agreement. We obviously have
20 certain views on the briefing schedule, but it's not contingent
21 on any of that outstanding motion practice.

22 In terms of—and not to beg you, I don't think, today
23 to litigate the merits of future discovery motions. In terms
24 of Mr. —

25 THE COURT: Well, let me interrupt you for a second,

1 Mr. Shaftel.

2 MR. SHAFTEL: Sure.

3 THE COURT: I take it, in part because you haven't
4 asked for any of the Reed Smith documents, that I'm not going
5 to hear an argument from you in terms of reliance on advice of
6 counsel being some kind of a defense to fraud on the
7 arbitrators.

8 MR. SHAFTEL: Your Honor, it is not my expectation
9 that there is any advice of counsel defense to be asserted. I
10 obviously have not seen the motion to be filed and served. But
11 it is in part the reason that I wanted, in transparency, to
12 flag for the Court that from our perspective, those documents
13 subject to the motion practice are not material to the dispute
14 at hand, including in terms of advice of counsel.

15 THE COURT: Okay. I interrupted you, sir.

16 MR. SHAFTEL: Your Honor is perfectly allowed to do
17 that.

18 I think I was going to touch upon the depositions
19 of—Mr. Kertsikoff was presented, not only as a 30(b)(6) for
20 Apargo, which is the Cypriot entity in which he has an economic
21 interest, he was also—he was fully prepared and has personal
22 knowledge, presented as the 30(b)(6) witness for the other two
23 Cypriot entities as well, Fentalon and Desimusco. He was at
24 the Quinn Emanuel office for 10-plus hours and I think about
25 eight hours of testimonial time. When we left at 8:30 at

1 night, give or take, he was served with papers—not
2 representing Mr. Kertsikoff personally, but—served with papers
3 in an adversary proceeding in the bankruptcy action. And I
4 raise that not, again, to litigate the propriety of service on
5 this call, but it was exactly why Ms. Karastamati and
6 Mr. Hadjieleftheriadis did not come to New York. They are not
7 directors or officers of the entities. We couldn't command
8 their appearance. But it was prescient. And they did have
9 private advice from counsel in Greece about potential
10 immigration, the ability to smoothly and timely exit the U.S.,
11 not only of service of process. Your Honor may recall from
12 prior submissions Holdings had threatened to issue warrants of
13 some kind against them. I think they were—

14 THE COURT: Mr. Shaftel, you'll address all of that in
15 response to the opposition to sanctions.

16 MR. SHAFTEL: Fair enough.

17 THE COURT: Suffice it to say, disregard of two orders
18 of mine, when you've had a full opportunity to raise the
19 matters, is not a matter that the Court takes lightly. That
20 said, when you put in your papers, I'm fully prepared to give
21 them the attention they deserve.

22 MR. SHAFTEL: We appreciate that, your Honor.

23 I believe the only—just to complete the circle, with
24 respect to Mr. Kanelos, it was I think more than just—to
25 provide a brief report—more than logistical issues. He has or

1 had Greek counsel who declined to speak with me but did speak
2 to a Greek lawyer. We retained—we were never comfortable with
3 what documents he was collecting or willing to search for. I
4 believe he took the position he wanted private notes available
5 at his deposition. He demanded, I believe, to clear—all
6 exhibits to be shown him in advance. Consideration was given
7 to enforcing the subpoena in Greece, and it was determined that
8 that could not be within any realistic time frame or likely
9 couldn't be handled by the Greek courts in any realistic time
10 frame, particularly because of the ongoing criminal proceeding
11 against Mr. Kanelos. Any motion or application in Greece was
12 going to get entangled in that. So for those reasons, we
13 declined and did not proceed.

14 THE COURT: Okay. That was your voluntary election.
15 I understand that.

16 MR. SHAFTEL: And I think from our perspective, again,
17 we don't see any further open discovery items.

18 THE COURT: Okay.

19 MR. NESSER: Your Honor, may I just note one thing?

20 THE COURT: Go ahead, Mr. Nesser. But counsel, please
21 identify yourself for the record when you ask to speak. I now
22 recognize your voice. I'm not sure the court reporter does.

23 MR. NESSER: I apologize. It's Isaac Nesser at Quinn
24 Emanuel for Levona.

25 Your Honor, I just wanted to note that we disagree

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1 with counsel's assertion that Desimusco and Fentalon appeared
2 for their 30(b)(6) depositions. Ms. Karastamati and
3 Mr. Hadjieleftheriadis had been designated as their 30(b)(6)
4 designees. We prepared on that basis. After those
5 depositions, after Mr. Shaftel indicated that those witnesses
6 were not appearing, and I believe after they defaulted on their
7 appearance, we got a notice announcing to us that
8 Mr. Kertsikoff had been now designated to testify on behalf of
9 the other entities as well. We didn't agree with that. We had
10 no time to prepare. We had insufficient time during the
11 deposition to take discovery from the other two. It was a
12 seven-hour deposition. Maybe it went a little bit long, but it
13 was not, you know, the additional seven hours for each to which
14 we would have been entitled. And maybe most important,
15 Mr. Kertsikoff was not prepared. I believe he testified he had
16 spoken over the weekend with, you know, his brother—his
17 cousins for 10 minutes, or 20 minutes, for the purpose of
18 preparing to testify on a long list of 30(b)(6) topics, and he
19 was in fact not prepared when we asked him the questions. So
20 we don't need to litigate that now, but I just want the Court
21 to be aware that that's not agreed.

22 THE COURT: All right. Let me now turn to the request
23 for an extension of time by the intervenor. Mr. Nesser, I
24 gather you oppose that. Tell me whether that's correct and why
25 you oppose it.

1 MR. NESSER: So, your Honor, first, I did want to
2 note, we told Mr. Shaftel we had no objection to the page
3 extension. We had discussed—our opening brief is now 50
4 pages. We had agreed with them having 50, provided we get 20
5 on reply, and I believe that was agreed to. But it's tied in
6 with the scheduling issues to some extent. So that's a more
7 minor matter, but I did want to make a note of it.

8 On the schedule, look, we're sympathetic to
9 Mr. Shaftel and to his colleagues, but as we've said in the
10 past, when there have been requests for extensions, the delay
11 in resolution of the case is causing prejudice to Levona every
12 day, and so we've been consistent or I've been consistent in
13 communicating instructions from my client that they're just not
14 comfortable agreeing to extensions of the schedule under that
15 circumstance.

16 THE COURT: And is a two-week delay really going to
17 cause incremental prejudice to your client? I mean, I
18 understand the desire to get this case resolved, but—

19 MR. NESSER: Your Honor, at minimum, my
20 understanding—this is Isaac Nesser at Quinn Emanuel. Your
21 Honor, at minimum, my understanding is there are tens of
22 thousands of dollars a day in revenue that's being diverted
23 just from the leasing of the ships every day that this doesn't
24 get resolved. My understanding as well is that
25 money—apparently money is being diverted from the company to

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1 pay various lawyers. And so it does appear to be a situation
2 in which, on an ongoing basis, that pot of money is being spent
3 in a way that does harm Levona's interests with every day that
4 passes.

5 I will note, your Honor, that in an effort to resolve
6 the issue, what we proposed—which is the same as what we
7 proposed last time they asked for extra time—is, if they will
8 agree to turn over the ships or to preserve the status quo, to
9 coin a phrase, so that money does not continue to be spent out
10 the door, then, you know, we would I think in that circumstance
11 be more comfortable with the additional time. But in the
12 context where they are, every day, in our view, misusing the
13 company and its resources and misdirecting its resources, we do
14 believe there is incremental injury.

15 THE COURT: And the harm that you're identifying I
16 take it can't be addressed through the bankruptcy court? Or is
17 that another issue?

18 MR. NESSER: Your Honor, I'm, candidly, not certain.
19 I don't believe so. I mean, there of course have been multiple
20 orders of the bankruptcy court already, directing the
21 intervenors and their principals and associated entities to
22 take actions that would mitigate some of this prejudice, and
23 they've been violated, willfully, and deliberately, and the
24 result of that is that, as I understand it, there are hundreds
25 of thousands of dollars of monetary sanctions, coercive

1 sanctions that have already been awarded and are continuing to
2 accrue daily, and so in the context where they're deliberately
3 ignoring and violating multiple court orders of the bankruptcy
4 already, it doesn't seem to us that an additional order of the
5 bankruptcy court directing them to stop doing things is going
6 to have an effect, at least in the short term.

7 THE COURT: All right. Let me hear from you,
8 Mr. Shaftel, in terms of the extension.

9 MR. SHAFTEL: Yes. Thank you, your Honor. We
10 obviously flatly disagree with the economic scenario that was
11 depicted. Not sure it can get resolved on this call, but I
12 think the shoe is on the other foot in terms of who is
13 interfering with business operations, for what purpose, and
14 potentially causing—or in fact causing harm to the value of
15 the business. That is one reason—maybe the reason—why we've
16 never dragged our feet in this case at all, and are looking,
17 and have always looked, to litigate efficiently and quickly.

18 Now last week, or two weeks ago—I guess it was last
19 week—notwithstanding all of the purported concerns that Levona
20 is expressing, okay, they asked to push back the briefing a
21 week, to which we consented. Frankly, just that very one week,
22 all right, which is half of the two weeks we're seeking, ought
23 to be almost automatically added to our side of the ledger.
24 It's a case that's been pending for two years. I for one
25 embrace, at least to the question your Honor was asking, what

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1 is—and both sides are going to be pointing fingers of what is
2 the practical harm for another two weeks. These are important
3 matters and they ought to be litigated fairly, on the merits,
4 and not having one party squeezed or unnecessarily and unfairly
5 jammed. When we set out the schedule for a two-week briefing
6 turnaround way back in May or the spring, it was not
7 contemplated that we would be facing 50 pages rather than 25
8 pages of briefing, and as we, quite frankly, wrote to the Court
9 yesterday, we're not in a position, given schedules and
10 resources, to effectively brief 50 pages in two weeks. And for
11 clarity, I do assume the 50 pages covers all—I know organized,
12 reorganized Holdings has indicated, I believe, that they may
13 file a joinder, but we're not imagining or anticipating
14 additional substantive briefing on top of the 50. So it is our
15 view, in context, in fairness, having just given the other
16 side—consented to the other side taking an additional week and
17 agreeing to—in recognizing the oversized briefing, we don't
18 believe that the request is a stretch, and there's no
19 algorithm, but we did apply the principle of doubling the pages
20 so doubling the standard turnaround time.

21 THE COURT: Okay. All right. I'm going to rule. I'm
22 going to give intervenors one additional week. So your
23 responsive papers are due on September 10th.

24 With respect to the enlargement, your request for an
25 enlargement, intervenor's request for the equivalent

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1 enlargement of briefing pages to 50 pages is granted. And
2 Levona will be entitled to 20 pages on reply. So that's my
3 order with respect to that.

4 Let me loop back for a moment with respect to the
5 30(b)(6) depositions, and I guess it's a question for you,
6 Mr. Shaftel. I just went back to look at the motion to compel
7 and my order on the motion to compel. The motion to compel at
8 docket 501 was one for each of the three individuals to sit for
9 deposition in their personal capacity and each respectively in
10 their 30(b)(6) capacity. I granted that motion, and I
11 compelled each of them to sit. Now I didn't lay out *in haec*
12 *verba* that I was directing them each to sit individually in
13 their personal capacity and in their corporate capacities, but
14 given that that was the relief that was sought and I granted
15 the relief sought without qualification, how could you have
16 understood my order any differently?

17 MR. SHAFTEL: Your Honor, we did appreciate and I
18 believe understand the order. We were not in a position to
19 command these individuals to attend deposition in New York.

20 THE COURT: Okay. Okay.

21 All right. Let me now turn to Mr. Nesser. The
22 reference in your letter to the status quo injunction, I was a
23 little bit confused by the reference in two respects. One is
24 the quite obvious respect that it's curious to have a notion
25 that an injunction issued by an arbitrator who is *functus*

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1 *officio* could remain in place. There's no mechanism, since the
2 arbitrator is a *functus officio*, for there to be a request for
3 a modification of the injunction or for enforcement of the
4 injunction. That's the first way in which I found it curious.

5 The second way in which I found the reference curious
6 is because it was in a letter without a request for any kind of
7 relief, and I'm accustomed to either getting letter motions or
8 other motions. So it was not clear to me what you were asking
9 for, and particularly in light of Mr. Shaftel's reference to
10 the fact that parties should have an opportunity to respond,
11 the obvious question was, if there should be relief, shouldn't
12 it be in the form of a motion?

13 MR. NESSER: Your Honor, it's Isaac Nesser at Quinn
14 Emanuel for Levona. I'll take the issues—I'll take the second
15 issue first.

16 Our view is that the intervenors and Reed Smith and
17 the bankruptcy have been repeatedly misrepresenting your
18 Honor's orders, and of course, your Honor, it's not the first
19 time we've dealt with this. Several months ago—or I can't
20 remember anymore how long ago, maybe it was more than that,
21 but—we had the entire episode in which they were representing
22 to multiple courts around the world, including in the
23 bankruptcy court, that the award had been confirmed, and we
24 brought that to your Honor in a letter and, you know, explained
25 what was happening, and your Honor thereafter clarified or

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1 reiterated that the award had not been confirmed and the award
2 remained subject to ongoing proceedings on our vacatur
3 position. And so our view is that the current situation is
4 similar to that episode in the sense that we are now having
5 precisely the same situation in which they are saying things
6 about your Honor's order that are just not true. Your Honor
7 plainly vacated the status quo injunction. That issue actually
8 was litigated in letters after the decision came back. And
9 your Honor then reissued the award and the amended award, and
10 again stated, plainly, that the status quo injunction is
11 vacated. And so if it would be preferable, in the Court's
12 view, for us to formally file a motion seeking—I don't know
13 what it would mean—perhaps sanctions for the misrepresentation
14 of what your Honor said and did, we can do that, if the Court
15 would prefer it. But we don't think there's anything to
16 clarify. The Court's order is the Court's order, and it was
17 clear.

18 On the issue of the *functus officio* point, we agree,
19 your Honor, that the arbitrator is of course *functus officio*.
20 The court who issued that injunction, so to speak, doesn't
21 exist anymore, so the injunction, therefore, by its terms,
22 dissolves, or necessarily dissolves. And so we agree that the
23 status quo injunction doesn't exist. But that's separate and
24 apart from the fact that the status quo injunction, by explicit
25 order of your Honor, was vacated.

1 THE COURT: All right. What I'd like you to do is
2 that if there is relief that you want, to proceed by way of
3 formal motion. I don't know whether that relief is
4 clarification, listening to you; I don't know whether the
5 relief is an order that persons who are properly subject to my
6 jurisdiction not misrepresent my orders, or whether it's a
7 motion for sanctions against those who are subject to my
8 jurisdiction. But plainly, my orders should not be
9 misrepresented. I try to be quite clear. My view is that the
10 status quo injunction is no longer in effect. So if you want
11 an order, you'll proceed in a way that you deem appropriate.

12 MR. NESSER: Thank you, your Honor.

13 THE COURT: Let me now loop back to the question of
14 the crime fraud exception, unless there's something else that
15 the parties want to address.

16 MR. SHAFTEL: Your Honor, I apologize. It's Hal
17 Shaftel trying to interrupt. But on the phone it's hard.

18 THE COURT: Go ahead.

19 MR. SHAFTEL: Yes. If I could ask to be heard on the
20 status quo issue. And we would encourage this to be addressed
21 by a formal motion. I do not believe we here have
22 misrepresented anything, certainly not advertently, but I don't
23 believe we misrepresented anything about the order. This issue
24 really arose in the bankruptcy court. There was a directive
25 from some motion practice pending since January for the

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1 intervenors to rescind certain board nominations and stock
2 registry changes, which we timely complied with, in response to
3 the bankruptcy court's order. In that context—really, again,
4 I think expressly stated in transparency—I explained to the
5 bankruptcy court that we do not represent Gas, and it is our
6 understanding that while we have—my clients have rescinded
7 those prior board and registry notices, that the management of
8 Gas continues, I think I wrote, consistent with the status quo
9 order.

10 I will say that it has been my understanding that the
11 February 2024 opinion and order of the Court, which referred
12 to—contained the language about vacating the status quo order,
13 did so on the assumption that there was going to be a final
14 judgment. It requested final judgment, I believe it was before
15 my time. I believe the parties submitted competing final
16 judgments, and then events overtook consideration of those
17 judgments, including I think a remand to Justice Belen.

18 As we understand it—we would like briefing on
19 this—the vacating of the status quo injunction was also in
20 tandem with the affirmative relief back at that time, in
21 February of 2024, that was being granted, including to the
22 nominees with respect to the preferred shares. That would have
23 rendered the status quo injunction moot, unnecessary. But
24 right now we have sort of half of that opinion and
25 order--frankly, less than half—with respect to the status quo

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1 injunction being applied, yet the other half, if your Honor
2 will, not being mathematical, with respect to the affirmative
3 relief in favor of the nominees, not being applied. And that I
4 think creates the disconnect. And to, you know, to proceed the
5 way that is being suggested really would be providing Levona
6 with a victory before it has a victory, and we don't think it
7 is going to have one. We don't see any reason to disturb the
8 ongoing management of the company. We do believe that in terms
9 of rationale, Justice Belen had it right. Whatever the
10 corporate governance disputes that are happening, let us
11 separate that from the ongoing day-to-day business operations
12 of the company. And until disturbed, those rulings by Justice
13 Belen also do provide at least a binding contract between the
14 parties, whatever effect they may or may not have with respect
15 to third parties. So we do see this as—

16 THE COURT: That's actually a very interesting
17 observation you made, Mr. Shaftel. In terms of a binding
18 contract between the parties, as I understand it, you don't
19 represent a party, so if, hypothetically, Eletson, who
20 Ms. Furey represents, and Levona, who Mr. Nesser represents,
21 decided, we don't want certain type of relief, what standing
22 would you have?

23 MR. SHAFTEL: So there are two responses, your Honor.
24 One, of course, the Cypriot preferred nominees did, if
25 you will, stipulate to be bound by the arbitrator's final

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award, so we would urge that that be the basis for standing.

Secondly—and I was explicit in our letter to your Honor yesterday about this—Levona is pointing to positions which—I don't want to get tripped up on the nomenclature of the entities, but that the Reed Smith firm has taken on behalf of certain clients or purported clients, and Levona's letter pointed to those statements in the bankruptcy court, and those are positions taken long before my involvement or my client's involvement in the case. That is one reason we believe it would be appropriate for those clients—Reed Smith on behalf of those clients, or purported clients, to be heard as well.

Because this is a—

THE COURT: Okay. So listen, I've heard you. The status quo injunction by the arbitrator is no longer in effect. The arbitrator is *functus officio*. If there is a party with standing who wants relief from this Court that that party believes the Court is empowered to provide, then they can ask me for that relief.

Mr. Shaftel, you've made arguments that—I suppose it's your client. I'm really not sure who you're speaking for, or whether you're speaking for Gas. You referenced Mr. Solomon. But again, if they're parties who want relief, and they've got standing, they can move the Court for relief. Mr. Nesser can also move the Court if there have been misrepresentations or the need for clarity with respect to my

1 orders. But there's nothing in my February order that
2 maintains the status quo injunction in effect. If somebody
3 wants something more in terms of relief and they have standing
4 to ask for it, the docket is open, the courthouse doors are
5 open, they can make the motion.

6 MR. NESSER: Your Honor, it's Isaac Nesser. May I
7 make a quick comment.

8 THE COURT: Go ahead, Mr. Nesser.

9 MR. NESSER: So look, I'm not certain whether we
10 informed the Court of the relevant development in the
11 bankruptcy court or not, or perhaps whether the Court is aware
12 of it independently, but we filed a motion for sanctions
13 against the intervenors in the bankruptcy court several months
14 ago, by virtue of acts that they had taken in which they had
15 purported to change the Eletson Gas board of directors and
16 change the share registry. The bankruptcy court granted that
17 motion—that's ECF 1759 in the bankruptcy court—and held the
18 intervenors in contempt of court for their violation of the
19 bankruptcy court's lift stay order. Mr. Shaftel a few minutes
20 ago stated that in his view the intervenors have complied with
21 that order. It's not our understanding there has been
22 compliance with that order. I expect that will be an issue
23 that will be taken up again with the bankruptcy court in due
24 course. But our view and our understanding is that there are
25 monetary sanctions, coercive monetary sanctions accruing

1 against the intervenors right now in realtime. And part of why
2 that matters to the issues that we've been discussing in the
3 context of the status quo injunction is because, what is the
4 status quo, your Honor? The status quo is, the common of Gas
5 is owned by Eletson Holdings. That was the bankruptcy court's
6 plan. That's Ms. Furey's clients. The preferred shares, the
7 status quo—by order of the bankruptcy court at ECF 1759 that I
8 was just discussing, the preferred shares, the status quo is
9 that Levona owns those shares. And so with respect to
10 Mr. Shaftel, his clients are not management of Gas at all as of
11 now, and perhaps, you know, that will be changed, depending on
12 how your Honor rules on the award, but at this point in time
13 the common is owned by Holdings and the preferred is owned by
14 Levona, and the notion that Mr. Shaftel's clients are
15 continuing, and their principals are continuing to operate Gas
16 in defiance of those orders and that reality, is the issue that
17 we're concerned about, and that is the reason why we brought
18 the issue of the status quo injunction to your Honor's
19 attention, because the entire basis, and sole basis upon which
20 they're purporting to be able to continue to act as officers of
21 this company is the notion that the status quo injunction
22 somehow froze them, in effect, in that capacity. But that's
23 just simply not true. The status quo injunction is no longer
24 in effect, the company is owned by its owners, and the owners
25 have the right to appoint officers and to determine the acts of

1 the company.

2 THE COURT: Mr. Nesser, when I made my comments
3 earlier that the status quo injunction was no longer in effect,
4 I was not oblivious to the points that you're making.

5 MR. NESSER: Yeah.

6 THE COURT: But I also wanted to be careful to
7 preserve the appropriate prerogatives, which is that unless and
8 until I have a hearing with respect to the appeals that are
9 pending before me—and there are certainly issues that are in
10 front of the bankruptcy court—the issue in front of me, the
11 status quo injunction, I've said what I've said, and that
12 whoever wants to bring this transcript to the attention of the
13 bankruptcy court, they're welcome to, for whatever worth the
14 bankruptcy court ascribes to it. And you can make your
15 respective motions.

16 It does occur to me—and I will put an order on the
17 docket to this effect—I am aware that there are appeals piling
18 up before me from bankruptcy court orders. I do intend to turn
19 to those in relatively short order. What I will put on the
20 docket in those cases is that if there is a party who believes
21 that all of the motions should now be decided and are ripe for
22 decision and want argument on them, they should so indicate.
23 I'll put that out as an order in all of the bankruptcy cases so
24 that if there are people who are not on this line, they will be
25 on notice.

1 Is there anything else, Mr. Nesser, that you want to
2 bring to my attention before I turn back to the question of the
3 crime fraud?

4 MR. NESSER: No, your Honor. I was actually just
5 going to bring to your attention that the sanctions order of
6 the bankruptcy court is now pending on appeal with your Honor,
7 but you got there first.

8 THE COURT: Okay. Mr. Shaftel, is there anything else
9 from you that you want to raise before I get to the question of
10 the crime fraud?

11 MR. SHAFTEL: Your Honor, thank you. I do
12 fundamentally disagree that monetary sanctions have or are
13 being incurred by the nominees. They have been—they are in
14 compliance with Judge Mastando's directive with respect to the
15 stock registry and the board and the board nominations. But we
16 do have Judge Mastando's order on appeal to your Honor. So I
17 just wanted to state our position and clarify what I think was
18 not an accurate description of the bankruptcy proceedings.

19 THE COURT: All right. Mr. Nesser, with respect to
20 crime fraud, is there a particular need for me to address that
21 expeditiously? I'm sensitive to the fact that there is an
22 appeal pending before the Second Circuit that does pertain to
23 what role Reed Smith has with respect to all of this, and while
24 Reed Smith has taken a position with respect to the crime fraud
25 exception, Ms. Furey also has a client who has, at a minimum, a

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1 claim with respect to the privileged information and therefore
2 a right to be heard, which makes the issue sensitive. It also
3 may make the issue, depending on the position that the Second
4 Circuit takes and the position that Eletson, as represented by
5 Ms. Furey, takes, it may make the whole crime fraud issue
6 somewhat theoretical or academic.

7 MR. NESSER: Your Honor, it's Isaac Nesser at Quinn
8 Emanuel for Levona. We've been struggling with the issue, your
9 Honor, because, you know, we filed the motion a month or so ago
10 or six weeks ago, eight weeks ago—I can't remember the
11 date—with the hope that it might be resolved and the documents
12 at issue produced to us in time for us to be able to use them
13 in depositions and in our vacatur brief. Of course that's not
14 where we currently are, and we have a schedule for filing the
15 vacatur briefs and we intend to file it on that schedule. We
16 do very strongly believe, your Honor, that that motion should
17 be granted. We do very strongly believe that the documents
18 that we are requesting in that motion will be important for
19 vacatur, and we are concerned—I don't want to put it too
20 strongly, but we're concerned and we're wondering how that all
21 gets worked out in the event that the vacatur submission is
22 filed and pending and decided potentially while this motion is
23 outstanding and potentially—and so I'm of course, your Honor,
24 exquisitely sensitive to the fact that your Honor is well aware
25 of all of this, and I hope I'm not being impertinent in any

1 respect, but that is our view.

2 With respect to the sensitivities with the Second
3 Circuit, I believe your Honor addressed that issue already in
4 connection with the motion to compel that we filed, and in
5 opposition to that motion, I don't recall whether it was Reed
6 Smith or Mr. — or the intervenors, but they made the argument
7 that, you know, what are you talking about, you can't do this,
8 the documents that are being sought are privileged, and the
9 Second Circuit has, you know, put things up in the air with
10 respect to privilege, and what your Honor said in response to
11 that was, look, the crime fraud exception by definition means
12 that the documents at issue are not privileged, and so if—

13 THE COURT: No. I understand that. I mean, if
14 Ms. Furey, though, were to take the position that the documents
15 belonged to her—

16 MR. NESSER: Sure.

17 THE COURT: —and were to take the position that
18 Eletson was prepared to turn them over to Levona, I might not
19 need to address the crime fraud exception.

20 MR. NESSER: That's fair, your Honor, and I'll leave
21 it to Ms. Furey to clarify what her client's position is on
22 that issue. But look, it's, from Levona's perspective, just a
23 timing issue and a sequencing issue, and, you know, if the
24 Court has—we of course defer to how the Court, you know,
25 intends to manage its own docket and manage these decisions,

1 and, you know, we're sensitive to that. But we do believe
2 these documents are important, we do believe they should be
3 produced, we do believe they'll be relevant and will make a
4 difference in terms of the strength of the arguments that we're
5 able to make in the brief that will be filed tomorrow, or
6 whenever it should be filed. Perhaps we could do a supplement
7 or whatever.

8 And your Honor, I don't want to lose track as well of
9 the motion to compel Eletson to produce documents from the
10 Microsoft database that's related—

11 THE COURT: I put that to the side for good reason.

12 MR. NESSER: Sure.

13 THE COURT: Because that does not just implicate the
14 privilege. I understand it implicates the ability, as I
15 understand it, of Eletson to operate. But I'll hear from
16 Ms. Furey with respect to that.

17 MS. FUREY: Yes, your Honor. Thank you. Jennifer
18 Furey on behalf of Eletson.

19 Eletson has taken the position that the documents on
20 the Eletson server are their property and therefore Eletson is
21 able to use them as it sees fit. And of course these documents
22 are routine because they went to an undated bankruptcy order.
23 There are documents on that server that are highly relevant to
24 the issues in front of this Court. Reed Smith sought with the
25 Second Circuit a stay on the use, disclosure, and review of

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1 these documents, an administrative stay, and the Second Circuit
2 denied its request. The stay that's currently in effect, as
3 your Honor is aware, the Second Circuit deals with an entirely
4 separate issue, which is Reed Smith's file, and so that
5 stay—Reed Smith's file, of course, fits differently than the
6 Eletson documents on Eletson's server. So we have—we
7 introduced, as an exhibit, at the deposition of Vassilis
8 Kertsikoff, a subset of documents from the server that did
9 contain counsel on them. Levona counsel left the room for that
10 introduction over, you know—once they were objected to by
11 intervenor's counsel. We believe intervenor's counsel
12 improperly invoked privilege on those documents, which, of
13 course, in no world do we see it as intervenor's privilege to
14 assert.

15 We plan on—how we had—we were going to propose
16 handling this issue is we were going to submit that subset of
17 documents that was introduced as an exhibit in connection with
18 a joinder that we're planning on filing on Levona's vacatur
19 petition, and we were going to do so under seal, just in the
20 interest of caution, and do so such that intervenors can see
21 them and the Court can view them, but they would not be viewed
22 by Levona, as they have not yet been reviewed by Levona. So
23 and if the Court determines it does not want to rely on those
24 documents, it can disregard it, but if it does, then it of
25 course can consider them.

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1 THE COURT: How long is your joinder going to be,
2 Ms. Furey?

3 MS. FUREY: Within the 25-page limit.

4 THE COURT: And that's in addition to the—that's not
5 part of the 50 pages for Levona.

6 MS. FUREY: No, no. It's separate. And it addresses,
7 you know, in large part these documents that are on the server,
8 as well as some issues—it's primarily focused on the issue of
9 the nominees, the purported transfer to the nominees.

10 THE COURT: Is there any reason, Mr. Nesser, or
11 Ms. Furey, why I shouldn't give Mr. Shaftel 25 pages to respond
12 to that joinder on the same September 10th date?

13 MS. FUREY: I have no objection to that, your Honor.

14 MR. NESSER: Your Honor, Levona has no objection.
15 This is Isaac Nesser.

16 THE COURT: All right. Mr. Shaftel, just to
17 anticipate it, you've got 25 pages to respond by
18 September 10th.

19 MR. SHAFTEL: Okay. Thank you, your Honor. For the
20 court reporter, it's Hal Shaftel. If I could address that but
21 also certain other items, with the Court's permission?

22 THE COURT: Go ahead.

23 MR. SHAFTEL: I did not—I guess I raised the issue.
24 I did not realize that we were going to have substantive
25 briefing on top of the 50, and at least with respect to those

1 25 pages, we would ask for additional time and an additional
2 week, because now we have 75 pages, which I did not anticipate
3 having to address, so we do make that request and ask for that
4 courtesy.

5 On additional points that we heard, there's a lot of
6 references to Reed Smith motions and appeals, and I do believe
7 if we're going to be addressing any of those matters in a
8 substantive fashion and the application and scope of the Second
9 Circuit's stay, they should be heard, and I think we should be
10 cautious on this call, without their presence, describing or
11 saying too much about the status.

12 THE COURT: I agree with that, Mr. Shaftel, and I've
13 tried to do that.

14 MR. SHAFTEL: Understood. And appreciate that.

15 In terms of what I am concerned about—and this is
16 from the party who said, within practical reason, let's plow
17 ahead with the motion practice—I was not embracing the concept
18 of sort of having it both ways, that as Mr. Nesser on behalf of
19 Levona said, well, maybe we have supplemental briefing down the
20 road. I believe if there's a view that the documents and the
21 discovery that your Honor still has to rule on is material and
22 potentially will be used in any future motion practice, it
23 should all be, for efficiency, done at once. So we do
24 oppose—we do object to the notion that potentially we'll have
25 this motion practice, yet Levona, Levona and Holdings, will

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1 wait and potentially add supplemental briefing down the road.
2 I think that if the parties are—if Levona and Holdings intend
3 to retain the prospect of using future discovery, we should
4 calibrate this briefing schedule to that, so we don't have to
5 be, you know, briefing twice or however many times.

6 THE COURT: No, I disagree with that proposition. If
7 I rule on the motion and I determine that I cannot grant the
8 relief that's requested, then there may be a request by Levona
9 to make a new motion based upon new evidence. I don't know
10 right now whether I would grant that motion. They would have
11 to show me some cause why I should permit them to make a second
12 motion for summary judgment, or to vacate. But if there's
13 additional documents that are disclosed and we end up having to
14 have a hearing in this case, then on both sides, that evidence
15 may be able to be used, particularly if it's documents that
16 were requested during the time period for discovery. That's
17 the important caveat, that there's a time period for discovery.

18 All right. Mr. Nesser, Ms. Furey, the position with
19 respect to additional time for the response to the joinder?

20 MR. NESSER: Your Honor, it's Isaac Nesser. Our view
21 is that there should not be additional time for the reasons I
22 explained earlier.

23 THE COURT: Ms. Furey?

24 MS. FUREY: I agree, and in addition, the issues are
25 obviously in parallel and very similar, so I think it's

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1 entirely reasonable for the intervenors to respond to both in
2 the same time frame.

3 THE COURT: Yes. Mr. Shaftel, you've got resources at
4 your firm. You'll do the opposition by September 10th.

5 All right. The conference has been very helpful.
6 Have a good day, everybody, and I look forward to receiving the
7 papers from you. Thank you, all.

8 ALL COUNSEL: Thank you.

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