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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: ELETSON HOLDINGS INC. *et al.*, Debtors. [1]	Chapter 11 Case No. 23-10322 (JPM) (Jointly Administered) Hearing: 12/19/2025 at 10:30 AM ET

REPLY IN SUPPORT OF MOTION OF ROLNICK KRAMER SADIGHI LLP, LASSIA INVESTMENT COMPANY, GLAFKOS TRUST COMPANY, FAMILY UNIT TRUST COMPANY, AND ELAFONISSOS SHIPPING CORPORATION TO QUASH OR, IN THE ALTERNATIVE, FOR A PARTIAL PROTECTIVE ORDER

[1] 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 Herbert Smith Freehills Kramer, 1177 Avenue of the Americas, New York, NY 10036.

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PRELIMINARY STATEMENT

Rolnick Kramer Sadighi LLP ("RKS") and its clients—Lassia Investment Company, Glafkos Trust Company, Family Unit Trust Company (the "Majority Shareholders"), and Elafonissos Shipping Corporation (together with the Majority Shareholders, the "Foreign Shareholders" and, together with RKS, the "Movants")—submit the following reply in support of their motion ("Opening Brief" or "Mot.") to quash or, for a partial protective order against, reorganized Eletson Holdings Inc.'s ("REH" and with its affiliated parties, the "Murchinson Parties") information subpoenas ("Subpoenas") to RKS and Reed Smith, LLP (the "Firms") pursuant to CPLR 2304, 5224, and 5240 and Fed. R. Bankr. P. 7026, 7069, and 9016.[2]

As REH's opposition brief (the "Opposition" or "Opp.") shows, these Subpoenas are fundamentally flawed and cannot be enforced. First, they violate CPLR 5224's mandatory certification requirements, which the statute strictly enforces. Because the Subpoenas omit the *precise* certification language required by law, they are "null and void." REH's attempt to cure this defect through a supplemental declaration only underscores the original noncompliance—an error that cannot be retroactively corrected under the statutory scheme. Where the statute contains a clear mandate and expressly declares that any violation of the mandate leaves a subpoena void, the Court lacks discretion to do anything other than quash. Second, REH lacked the "reasonable belief" necessary to issue information subpoenas. Neither RKS nor Reed Smith possesses debtor-specific, collection-related information concerning all fourteen debtors the Subpoenas concern, and the Opposition's own declaration confirms this absence—confirmation that is dispositive.

[2] RKS and the Majority Shareholders move to quash the RKS Subpoena on all grounds laid out in this motion. Elafonissos moves to quash based on lack of personal jurisdiction, an issue already raised and on appeal to the district court, and only if personal jurisdiction is ultimately found, on the other grounds too. The Majority Shareholders move to quash the Reed Smith Subpoena.

Third, even if enforceable, the Subpoenas are overbroad and risk intruding on privileged communications, creating conflicts of interest that compromise the Foreign Shareholders' right to effective counsel and appellate review. These defects are not technicalities; they strike at the heart of statutory compliance and the integrity of the attorney–client relationship. At best, they can be resolved another day, when compliant subpoenas are issued.

For these reasons, and to prevent misuse of post-judgment discovery as a tool to disrupt ongoing appeals, the Court should quash the Subpoenas in their entirety or, at minimum, restrict their scope to relevant, non-privileged information.

ARGUMENT

I. THE SUBPOENAS SHOULD NOT BE ENFORCED

A. THE OPPOSITION CONFIRMS THE SUBPOENAS' CERTIFICATIONS RENDER THEM INVALID UNDER CPLR 5224

1. THE CERTIFICATIONS VIOLATE CPLR 5224

As the Movants' Opening brief explains, the Subpoenas are invalid. CPLR 5224 is clear: Information subpoenas served on recipients other than the judgment debtors "shall . . . stat[e]" the specific language the provision writes out in full and all capital letters, which certifies that the subpoena issuer has the requisite basis for serving the subpoena (CPLR 5224(a)(3)(i)), and any that do not "shall be deemed null and void" (CPLR 5224 (a)(3)(ii)). But the Subpoenas did not comply. Instead, REH re-wrote the mandatory language and inserted deviant certifications in the Subpoenas, which neither affirm compliance with General Business Law § 601 or the issuer's belief that the recipient has useful information "about the debtor," as the CPLR 5224 expressly requires. The statute leaves no room for discretion—the Subpoenas are "null and void."

The Opposition does nothing to refute this straightforward application of the law. In fact, far from rebutting the Movants' interpretation of CPLR 5224 or the Subpoenas' noncompliance

with it, the Opposition implicitly confirms both. REH does assert—confidently and without qualification—that it is "*of course* is not the law" that "the Information Subpoenas are invalid for any minor deviation from the language of the statute" (Opp. at 4 (emphasis added)); however, the Opposition fails to muster a scintilla of support for this claim, which it presents without any accompanying authority or rationale. (*Id.*) The omission is telling: there is no reason to believe that CPLR 5224 permits deviation. Indeed, as both of the Movants' briefs show, the provision does not, requiring the Subpoenas to include the certifications it wrote out, rather than those REH did. (*See* Mot. at 8-9.)

Also, REH repeatedly acknowledges that its Subpoenas did—in fact—replace the mandatory certification with their own. Notably, REH tries to "moot" any deficiencies in its certifications by using its declaration to provide a new one that finally "tracks the language of C.P.L.R. §5224(a)(3)(i)." (Opp. at 4 (quoting Grodin Decl. ¶ 9).) The maneuver is an implicit admission: The Subpoenas' certifications did not track CPLR 5524's; if they had, there would be nothing to moot and no reason for a new certification. Likewise, both the Opposition and accompanying declaration brush off any "deviation" of Subpoenas' certifications from that in the "text of C.P.L.R. §5224(a)(3)(i)" as "minor" and, in so doing, suggest that the Subpoenas did, in fact, deviate. (Opp. at 4; Opp. Decl. ¶¶ 6, 8, 9.)

REH does not cite to *any* authority that "minor" deviations—or any deviations—from CPLR 5224 are allowed. Nor does REH explain where the line is—what deviations are material and what are minor, such that a subpoena is not null and void. That is because the statute makes no such distinction and no such allowances. REH could have followed the statutory language, but it did not and purposefully rewrote the language. Now REH wishes to avoid the result that *the statute itself* provides. It cannot. In sum, the Opposition confirms the what the statute already declared:

Information Subpoenas must include the certification spelled out in CPLR 5524, neither the Subpoena to RKS nor the Subpoena to Reed Smith did, and as a result, both were "void" *ab initio*. This court has no discretion to ignore the statute. This Court can and should end its analysis here.

2. REH LACKED THE REASONABLE BELIEF NECESSARY TO ISSUE THE SUBPOENAS UNDER CPLR 5524

The Opposition also confirms that REH should not have issued the Subpoenas at all. Information subpoenas "may be served . . . ***only if***" the judgment creditor has a "reasonable belief" that the recipient has "information ***about the debtor***" that will assist the creditor in collecting the judgment. CPLR 5224(a)(3)(i) (emphasis added). As the Opening Brief explained, however, REH lacked that belief because neither RKS and nor Reed Smith has ties to all fourteen of the judgment debtors the Subpoenas concern, let alone information relevant to collecting funds from each. (Mot. at 9.) As a result, even if the faulty certifications did not render the Subpoenas void, the Subpoenas would still be invalid.

To contest this point, the Opposition presents a declaration that lays bare any purposed basis REH had for issuing the Subpoenas, and that basis underscores the problem rather than cures it. (Dkt. No. 1905 ¶ 10.) For example, the declaration asserts that it is reasonable to believe the firms have information relevant to collecting funds from Keros Shipping Corporation solely because RKS is U.S. counsel to a company that happened to join in Keros's motion in a Greece, and Reed Smith was U.S. counsel to a company related to "provisional board" that motion sought to appoint—even though there is no suggestion that either firm ever represented Keros or any party with respect to a foreign proceeding. (*Id.*) This is mere litigation trivia. The purported facts suggest the firms have or had clients whose interests were, at a certain time and in certain respects, aligned with other judgment debtors. But they do not suggest anything potentially relevant, like

that the firms were ever associated with judgment debtors like Keros or had knowledge of their assets.

Accordingly, the declaration confirms what the Movants have argued all along: REH lacked the debtor-specific, collection-related belief that CPLR 5224 requires, and the Subpoenas are invalid for that reason as well. *See Ayyash v. Koleilat*, 957 N.Y.S.2d 574, 581–83 (Sup. Ct. 2012), aff'd, 981 N.Y.S.2d 536 (1st Dep't 2014) (invalidating subpoenas where the issuer's "reasonable belief" was inadequate).

3. THE OPPOSITION FAILS TO SHOW THE SUBPOENAS COMPLY WITH CPLR 5224 OR THAT THE COURT SHOULD OVERLOOK THEIR NONCOMPLIANCE

The Opposition presents four arguments for the Subpoenas' validity, but none are availing.

First, REH argues that *Avalon Holdings Corp. v. Guy Gentile*, 350 F.R.D. 8 (S.D.N.Y. 2025), "blessed" and the language in the Subpoenas' certifications as "sufficient." (Opp. at 3.) *Nonsense*. The court did not decide or even consider the sufficiency of any subpoena certification. *See generally Avalon*, 350 F.R.D. at 8-14. In *Avalon*, the subpoena recipients had answered 26 out of 27 interrogatories. *Id.* at 10. Instead of moving to quash the subpoena, they moved for protective order permitting them to avoid answering a single interrogatory, which they objected to solely based on privilege and relevance. *Id.* They never mentioned the subpoena certification, so the court did not either. *See generally id.* at 8-14. A party's failure to raise issues with a subpoena certification is hardly cause to believe the certification sufficient, let alone abrogate CPLR 5224's express requirements.

Furthermore, even if the court had specifically held the *Avalon* subpoena's certification sufficient, its holding still would not apply here; that certification was materially different—and far closer to the language CPLR 5224 specifies than the Subpoenas' certifications are. They stand alone as the only certifications to rewrite the mandatory language to state that the subpoena issuer

had a "reasonable belief that" the recipient "has information about ***one or more of the Judgment Debtors***" (Dkt. No. 1889-1 at 3 (emphasis added); Dkt. No. 1889-2 at 3.), rather than "about ***the debtor***," as the rule requires and the *Avalon* subpoena certifies (CPLR 5224(a)(3)(i) (emphasis added); Dkt. No. 1904 at 3). In short, Avalon says nothing at all about or relevant to the subpoena certifications at bar.

Second, the Opposition tries and fails to distinguish the caselaw the Movants cited as support for construing CPLR 5224's use of the word "shall" literally—to strictly require what follows, *i.e.*, that information subpoenas include the certification language the provision provides. The Movants' point was that, within the CPLR, "shall" generally indicates strict compliance is necessary, and the cases show precisely that. REH dismisses *LR Credit 21, LLC v. Burnett* as "merely" being about a lack of proof. (Opp. at 5 (quoting 967 N.Y.S.2d 916, 919 (N.Y. Dist. Ct. 2013)). In fact, however, the court expressly denied the party's petition "since petitioner's papers fail[ed] to plead and prove compliance with the requirements of CPLR 5222–a(b)(2) and 5222–a(b)(3)." *LR Credit 21, LLC*, 967 N.Y.S.2d at 919. The court held that "[n]othing less than ***strict, literal compliance*** w[ould] suffice"' based on its interpretation of those Article 52 CPLR provisions, which introduced the post-judgment procedures at issue with the word "shall." *Id.* at 917-18 (citations omitted).

REH also dismisses *Woloszuk v. Logan-Young*, which interprets CPLR 3216, by suggesting that the court "required 'strict compliance with conditions precedent to dismissal' for want of prosecution." (Opp. at 5 (quoting 234 N.Y.S.3d 365, 367 (4th Dep't 2025)). REH's point is unclear; what is clear, however, is that the court held a CPLR provision stating, "[n]o dismissal ***shall*** be directed" absent compliance with certain conditions, required "strict compliance" with

those conditions, and then reversed the dismissal solely because the lower court did not serve a demand in satisfaction of one such condition. *Woloszuk*, 234 N.Y.S.3d at 367 (citations omitted).

Finally, REH dismisses *Goldstone v. Gracie Terrace Apartment Corp*. for "merely not[ing] that 'CPLR 3016(a) requires that in "an action for libel or slander, the particular words complained of shall be set forth in the complaint."'" (Opp. at 4 (quoting 938 N.Y.S.2d 227, at *6 (N.Y. Sup. Ct. 2011)). But *Goldstone* does not *merely note* what CPLR 3016(a) says. Instead, directly on point, the case holds that the provision, which—like CPLR 5222–a, 3216, and 5224—introduces a requirement with the word "shall," is "strictly enforced," mandating use of the "exact words," and then dismisses claims because complained of statement was "paraphrased," rather than recited precisely. *Goldstone*, 938 N.Y.S.2d 227, at *6.

As the Opening Brief explained, all three cases suggest CPLR 5224's use of the word "shall" indicates strict compliance with its certification language is necessary. (Mot. at 7-8.) Further, as the Opposition's silence confirms, no authority—none—or reasoning suggests to the contrary that an alternative certification, like the Subpoenas', does or even might suffice. The rule does not permit subpoena issuers to avoid its straightforward, compulsory requirement.

Third, the Opposition argues—without any basis in the statute or other support—that declaration accompanying the Opposition "moots" the certification defect by supplying a supplemental attorney certification that tracks the statute. That contention cannot be reconciled with the statutory scheme. "Any" information subpoena served on the non-debtor recipient certification "shall contain" the certification; if the subpoena "***does not contain the certification***," it is "***null and void***." CPLR 5224(a)(3) (emphasis added). The Subpoenas were void *ab initio*; logically, they cannot be retroactively validated—by a declaration or anything else. Further, just as CPLR 5224 does not credit substantial compliance, it does not provide a mechanism to amend

an information subpoena's certification after service, let alone after the filing of a motion to quash. REH's failure to include the correct certification in its Subpoenas is fatal and irreversible.

Fourth, solely in a footnote that this Court can ignore in the first instance, the Opposition argues the Motion should also be denied because the Moving Parties failed to meet and confer in a "good faith." (Opp. at 4 n.3 (incorrectly citing Local Rule 7001-1).) In doing so, it misrepresents the facts and the law. During the meet-and-confer, RKS mentioned, among other things, that the Subpoenas were improper, were improper as to the law firms in particular, and that its questions raised privilege concerns. (Bodnar Decl. ¶ 4.) Its objections were not limited to "service and privilege."[3] (Opp. at 4 n.3.) Further, none of the authorities REH cites suggest that otherwise meritorious discovery motions should be denied for failure to explain the motion's grounds with some unknown specificity at a prior meet-and-confer. Instead, the *Olin* court held that the movant's "failure to" seek "a pre-motion discovery conference"—rather than any meet-and-confer—"doom[ed]" its motion, *Olin Corp. v. Lamorak Ins. Co.*, 517 F. Supp. 3d 161, 177 (S.D.N.Y. 2021), and the *Leon* court merely warned attorneys, including one accused of "hostile and unprofessional" misconduct, to cooperate during discovery while denying a motion for sanctions, *Leon v. Anderson's Tree Serv., Inc.*, No. 23-CV-9525 (JMA) (JMW), 2025 WL 1348442, at *4 (E.D.N.Y. May 8, 2025).

Even if Movants' meet-and-confer efforts were inadequate, they would not justify denying this motion. "The merits of a discovery motion may be addressed 'where the meet-and-confer

[3] REH's summary of the meet-and-confer is misleading and improper. RKS did not object to service, as REH claims. (Bodnar Decl. ¶ 4.) In fact, RKS confirmed for REH that it would not argue the service of either Subpoena was faulty. (*Id.*) Also, the Opposition conveniently omits that REH's counsel confirmed its view that RKS had satisfied its meet-and-confer obligations during the meeting. (*Id.*) Furthermore, REH presented this misleading account of the meeting in a memorandum of law without citing to any sworn declaration or other factual evidence.

would have been futile." *Alexander Interactive, Inc. v. Adorama, Inc.*, No. 12 CIV. 6608 PKC JCF, 2013 WL 6283511, at *3 (S.D.N.Y. Dec. 4, 2013) (collecting cases). Such futility is clearly present here, since the Movants argue the Subpoenas are void, REH argues the opposite, and there is no middle ground. Accordingly, the Court should decide this motion on its merits, which show the Subpoenas are invalid.

B. THE COURT SHOULD NOT ALLOW REH TO USE THE RKS SUBPOENA TO UNDERMINE THE FOREIGN SHAREHOLDERS' RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AND APPELLATE REVIEW

The opposition's reliance on broad principles of post-judgment discovery and cases permitting subpoenas to law firms does nothing to cure—or even confront—the fundamental defects here. (*See* Opp. at 5-8.) The RKS Subpoena creates an inherent conflict of interest that compromises the Foreign Shareholders' right to counsel and appellate review, and the circumstances of its issuance strongly suggest that this was its intended purpose. These defects render the Subpoena improper and impermissible, even if it is ordinary and acceptable otherwise.

The Opposition correctly notes that Article 52 does not *forbid* subpoenas to counsel and that courts have permitted them in the past. (*Id.* at 6.) Nevertheless, courts have quashed them in the past too. *See, e.g.*, *Astraea NYC LLC v. Rivada Networks, Inc.*, 592 F. Supp. 3d 181, 183 (S.D.N.Y. 2022). Also, REH's conclusion—that RKS is a "proper target for post-judgment discovery"— simply does not follow from the fact that Article 52 does not contain an absolute prohibition on subpoenas to law firms, and REH's argument is a complete strawman of the Movants' point. (Opp. at 6 (citing C.P.L.R. § 5223 and *Avalon*, 350 F.R.D. at 14).) Here, the RKS Subpoena presents two special concerns. First, it inserts conflicts of interest into RKS's ongoing representation of the Foreign Shareholders in, among other things, the appeal of the *very orders and judgments* that serve as the purported *basis for the Subpoena*. "Courts have been especially

concerned about the burdens imposed on the adversary process when lawyers themselves have been the subject of discovery requests," and that concern is heightened here. *In re Subpoena Issued to Dennis Friedman*, 350 F.3d 65, 70 (2d Cir. 2003) (citation omitted)); *cf. Sea Tow Int'l, Inc. v. Pontin*, 246 F.R.D. 421, 424 (E.D.N.Y. 2007) ("[E]ven a deposition of counsel limited to relevant and nonprivileged information risks disrupting the attorney-client relationship and impeding the litigation."). Crucially, the Opposition does not present any authority sanctioning a subpoena that injects conflicts into ongoing representation or disrupts otherwise disrupts advocacy, especially where the representation concerns the orders underlying the judgment the subpoena concerns. In *Avalon*, for example, the court denied a protective order to attorneys who had stopped representing the defendant and judgment debtor at least nine months before. *Avalon*, 350 F.R.D. at 10. The current situation is the exact opposite.

Second, here, disrupting the relationship between attorney-client relationship between the Foreign Shareholders and their appellate counsel appears to have been *the point*. Instead of targeting better sources of the judgment debtors' financial information, REH rushed to serve on RKS first and right as it was filing appeals. (Mot. at 10-11.) Given the issues it raises, serving discovery on counsel should be at best a last resort. *See Astraea NYC LLC v. Rivada Networks, Inc.*, 592 F. Supp. 3d 181, 183 (S.D.N.Y. 2022) ("The proper procedure is not an ill-conceived inquiry of defendant's attorneys seeking information they learned in the course of the case, but to direct relevant questions to the defendant.") But REH did it first. REH's has a history of using procedural maneuvers to insulate favorable decisions from review, and the RKS Subpoena appears to be yet another, even though post-judgment discovery cannot be "utilized for illegitimate

reasons." *Pala Assets Holdings Ltd v. Rolta, LLC*, No. 652798/2018, 2022 WL 5004378, at *3-4 (N.Y. Sup. Ct. Oct. 04, 2022) (citation omitted).[4]

REH admits it eventually served subpoenas on banks and could seek information from counterparties. Its insistence on targeting appellate counsel therefore cannot be justified as necessary. The deliberate selection of RKS, timed to coincide with appellate filings, underscores the improper purpose: to disrupt representation and dilute the Foreign Shareholders' appellate rights.

REH's Opposition fails to rebut this core point. The RKS subpoena is not a typical, legitimate exercise of post-judgment discovery; it is an ill-conceived attempt to interfere with ongoing appeals and compromise the attorney-client relationship this Court should not permit.

II. IF THE COURT ENFORCES THE SUBPOENAS, IT SHOULD NARROW THEIR SCOPE

The Opposition claims the Subpoenas are "narrowly tailored" but fails to address Movants' reasons for asserting otherwise. (Opp. at 5-6.) In reality, the Subpoenas are overbroad: They demand information about fourteen Judgment Debtors and cover a period from March 7, 2023, to an indefinite future (Dkt. No. 1889-1 at 1, 3; Ex. 1889-2 at 1, 3)—even though RKS has only represented four Foreign Shareholders, which hired the firm in March 2025 (Dkt. No. 1556). The Opposition declaration suggests that two of the judgment debtors may have held officer positions at the clients, and that those clients have had interests in foreign litigation that overlapped with other judgment debtors. (Dkt. No. 1905 ¶ 10; *supra* at 4-5.) But REH does not and cannot cite any reasonable basis for concluding RKS has knowledge concerning all fourteen debtors, or even

[4] The Opposition distinguishes *Pala Assets Holdings Ltd v. Rolta, LLC* on the facts (Opp. at 7-8 (citing 2022 WL 5004378, at *3-4); however, the general concern for or limit on serving discovery for improper purposes is all the Movants' cite it for, and REH does not dispute that proposition.

knowledge concerning the four Foreign Shareholders that pre-dates March 2025. These are basic, fundamental issues of scope.

Further, nothing in the Subpoenas confines them or their questions to non-privileged information, even though they are addressed directly to counsel, including RKS, which actively represents the Foreign Shareholders. (*See generally* Dkt. Nos. 1889-1, 1889-2.) Narrow tailoring is particularly appropriate in this situation; "discovery rules" are not intended "to foster disputes about the boundaries of the attorney–client privilege." *Astraea NYC, Inc.*, 592 F. Supp. 3d at 183.

Accordingly, if the Court disregards CPLR's clear requirements and upholds the Subpoenas, it should significantly narrow their scope—at minimum, confining requests to relevant, non-privileged information and eliminating any excessive or improper demands.

In the alternative, this issue can be left for another day. If valid, proper subpoenas issued, the Firms and REH could be left to work on the scope issues. But that would require subpoenas that were not null and void to exist.

CONCLUSION

For the foregoing reasons, the Court should either quash the Subpoenas or issue a partial protective order narrowing the Subpoenas.

Dated: December 12, 2025
New York, New York

Respectfully submitted,

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