

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

MICHAEL D. COHEN,

Plaintiff,

v.

TRUMP ORGANIZATION LLC,

Defendant.

**COMPLAINT**

Index No. \_\_\_\_\_

**JURY DEMANDED**

Michael D. Cohen (“Mr. Cohen”), by and through undersigned counsel, for his Complaint against Trump Organization LLC (the “Trump Organization” or the “Organization”), respectfully alleges as follows:

**NATURE OF THE ACTION**

1. This action arises from the Trump Organization’s failure to meet its indemnification obligations under a contractual agreement between the Trump Organization and Mr. Cohen, pursuant to which the Trump Organization agreed to indemnify Mr. Cohen and to pay attorneys’ fees and costs incurred by Mr. Cohen in connection with various matters arising from Mr. Cohen’s work with and on behalf of the Organization and its principals, directors, and officers. These matters included multiple congressional hearings, Special Counsel Robert S. Mueller III’s investigation, and others. As a result of the Trump Organization’s unfounded refusal to meet its indemnification obligations under the indemnification agreement, Mr. Cohen has incurred millions of dollars in unreimbursed attorneys’ fees and costs, plus additional indemnifiable amounts, and continues to incur attorneys’ fees and costs in connection with various ongoing investigations and litigation.

2. The Trump Organization's failure, without any reasonable basis, to pay Mr. Cohen's attorneys' fees and costs and other amounts incurred by Mr. Cohen in service to and at the behest of the Organization and its principals, directors, and officers, constitutes a breach of the Trump Organization's indemnification obligations under the indemnification agreement.

3. Additionally, by failing to indemnify Mr. Cohen, as required under the indemnification agreement, only after it became clear that Mr. Cohen would cooperate in ongoing investigations into his work for the Trump Organization and its principals, directors, and officers, the Trump Organization breached the covenant of good faith and fair dealing in the indemnification agreement.

#### **THE PARTIES**

4. Michael D. Cohen is an individual who resides in New York, New York.

5. Trump Organization LLC is a limited liability company organized under the laws of the State of New York. The Trump Organization's headquarters are located at 725 Fifth Avenue, New York, New York 10022.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to N.Y. C.P.L.R. § 301.

7. Venue is proper in this county pursuant to N.Y. C.P.L.R. §§ 503 and 509.

8. This Court has the power to render a declaratory judgment having the effect of a final judgment as to the rights and other legal relations of the parties pursuant to N.Y. C.P.L.R. § 3001.

9. Because the Trump Organization has refused to meet its obligations under its indemnification agreement with Mr. Cohen and has refused to pay Mr. Cohen's attorneys' fees

and costs, and other indemnified amounts, since June 2018, an actual controversy exists between the parties that cannot be resolved absent relief from this Court.

### **FACTUAL BACKGROUND**

#### **I. Mr. Cohen's Work for the Trump Organization**

10. In 2006, Mr. Cohen joined the Trump Organization as Executive Vice President and Special Counsel.

11. During his employment with the Trump Organization, Mr. Cohen became known as Mr. Donald J. Trump's ("Mr. Trump") "fixer," often helping Mr. Trump, the Trump Organization, and other affiliated businesses with issues relating to licensing deals and real estate projects. Between approximately September 2015 and June 2016, Mr. Cohen worked on behalf of the Trump Organization on a project to develop a Trump-branded property in Moscow, Russia (the "Trump Moscow Project").

12. On June 16, 2015, Mr. Trump announced his candidacy for the Presidency of the United States.

13. On June 7, 2016, Mr. Trump secured the Republican nomination for President of the United States.

14. In addition to his work for the Trump Organization, Mr. Cohen also advised Mr. Trump's 2016 presidential campaign (the "Trump Campaign"). Mr. Cohen made televised and media appearances on behalf of the Trump Campaign and took on the same "fixer" role on behalf of the Trump Campaign and then-candidate Mr. Trump that he performed for the Trump Organization.

15. In or around August 2016, at the direction of Mr. Trump, Mr. Cohen arranged an agreement between American Media, Inc. ("American Media"), the parent company of the National Enquirer, and former Playboy model Karen McDougal ("Ms. McDougal") that

effectively buried a story of an alleged affair between Ms. McDougal and Mr. Trump (the “McDougal Non-Disclosure Agreement”). Using a practice called “catch and kill,” Mr. Cohen arranged for American Media to pay \$150,000 to Ms. McDougal for the rights to the story about the alleged affair. Upon information and belief, the McDougal Non-Disclosure Agreement gave American Media the exclusive rights to “any romantic, personal and/or physical relationship McDougal has ever had with any then-married man” and prevented Ms. McDougal from speaking publicly about the alleged affair.

16. In or around October 2016, at the direction of Mr. Trump, Mr. Cohen paid \$130,000 to adult film actress Stephanie Clifford, known professionally as Stormy Daniels (“Ms. Daniels”), in exchange for Ms. Daniels’ agreement not to speak publicly about an alleged affair between Ms. Daniels and then-candidate Mr. Trump (the “Daniels Non-Disclosure Agreement”). Mr. Cohen used funds from a home equity line of credit (“HELOC”) that Mr. Cohen secured with his home through a company he owns, Essential Consultants, LLC.

17. On January 20, 2017, Mr. Trump was inaugurated as the forty-fifth President of the United States. The same day, Mr. Cohen resigned from the Trump Organization to serve as Mr. Trump’s personal attorney.

18. In or around January and February 2017, Mr. Cohen sought reimbursement from the Trump Organization for various expenses he had incurred in connection with his work for the Organization, including legal expenses and the \$130,000 payment that Mr. Cohen made to Ms. Daniels.

19. In or around March 2017, Mr. Cohen joined the Republican National Committee as National Deputy Chairman for finance and, later, Vice Chair for the Northeast region.

## **II. Investigations Commence into Russian Interference with the 2016 Presidential Election**

20. On January 13, 2017, the United States Senate Select Committee on Intelligence (the “Senate Intelligence Committee”) announced their investigation into alleged interference by the Russian government into the 2016 United States presidential election (the “2016 Election”), including any possible coordination with the Trump Campaign.

21. On January 25, 2017, the United States House Permanent Select Committee on Intelligence (the “House Intelligence Committee”) announced an investigation into alleged interference by the Russian government into the 2016 Election.

22. On or around May 17, 2017, the U.S. Department of Justice Special Counsel’s Office commenced an investigation, led by Special Counsel Robert S. Mueller III (the “Special Counsel”), into potential coordination between the Trump Campaign and the Russian government, potential obstruction of justice by Mr. Trump, and related matters (the “Mueller Investigation”).

23. By the end of May 2017, Mr. Cohen had emerged as a person of interest in the congressional investigations and the Mueller Investigation (together, the “Investigations”). Mr. Cohen retained counsel, McDermott Will & Emery LLP (“McDermott”), to represent him in connection with the Investigations.

24. On or around May 31, 2017, the House Intelligence Committee issued a subpoena to Mr. Cohen as part of its investigation into alleged interference by the Russian government into the 2016 Election.

## **III. The Indemnification Agreement**

25. The Trump Organization and its counsel were well aware of the Investigations and other legal challenges Mr. Cohen was facing beginning in 2017.

26. In or around July 2017, the Trump Organization entered into an agreement with Mr. Cohen under which the Trump Organization agreed to indemnify Mr. Cohen and, separately, to pay for his attorneys' fees and costs in connection with Mr. Cohen's representation and defense in the Investigations and other matters. The Trump Organization and Mr. Cohen were proceeding pursuant to a "joint defense" at that time with respect to the Investigations and other matters.

27. Mr. Cohen reasonably relied upon the Trump Organization's agreement to pay for his attorneys' fees and costs, and based on this agreement, engaged counsel to represent him in the Investigations and other matters. In reasonable reliance upon the Trump Organization's agreement to pay for his attorneys' fees and costs, Mr. Cohen incurred attorneys' fees and costs in connection with the Investigations and other matters.

28. The Trump Organization and McDermott worked collaboratively in coordinating efforts and funding Mr. Cohen's defense under the indemnification agreement.

29. The Trump Organization initially honored its indemnification agreement. On October 25, 2017, the Trump Organization paid \$137,460.00 to McDermott. This amount reflected half of McDermott's unpaid invoices at the time, with the Trump Organization promising at that time that the other half would be paid the following day by the Trump Campaign.

30. In the fall of 2017, the Mueller Investigation and related congressional hearings relating to the involvement of the Russian government in the 2016 Election intensified. Between August and December 2017, the following events resulted in increased scrutiny upon Mr. Trump and Mr. Cohen:

- a. On August 28, 2017, Mr. Cohen's legal team sent a letter to the House Intelligence Committee and the Senate Intelligence Committee regarding the Trump Moscow Project;
- b. On September 7, 2017, Donald Trump, Jr. testified before the United States Senate Committee on the Judiciary (the "Senate Judiciary Committee");
- c. On September 19, 2017, Mr. Cohen provided a statement to the Senate Intelligence Committee regarding the Trump Moscow Project;
- d. On September 26, 2017, Roger Stone, a Republican party strategist and confidant of Mr. Trump, testified before the House Intelligence Committee;
- e. On October 5, 2017, George Papadopoulos, a former campaign adviser to Mr. Trump, pled guilty to making false statements to FBI agents relating to contacts he had with agents of the Russian government while working for the Trump Campaign;
- f. On October 25, 2017, Mr. Cohen testified before the Senate Intelligence Committee regarding, among other things, the Trump Moscow Project;
- g. On October 30, 2017, Paul Manafort, former chairman of the Trump Campaign, and Rick Gates, also an adviser to the Trump Campaign, were indicted by a federal grand jury on 12 counts, including conspiracy against the United States;
- h. On November 2, 2017, Carter Page, a former adviser to the Trump Campaign, testified before the House Intelligence Committee;

- i. On November 14, 2017, Attorney General Jeff Sessions testified before the United States House Committee on the Judiciary (the “House Judiciary Committee”);
- j. On December 1, 2017, Retired Lt. General Michael Flynn pled guilty to lying to the FBI about conversations he had with the Russian ambassador; and
- k. On December 6, 2017, Donald Trump, Jr. testified before the House Intelligence Committee.

31. Following these events, and notwithstanding Mr. Cohen’s alleged involvement in and knowledge of these events and the issues addressed therein, the Trump Organization affirmed its commitment to indemnify Mr. Cohen’s legal expenses. In December 2017, with multiple overdue invoices from McDermott pending, the Trump Organization confirmed that it would continue to indemnify Mr. Cohen and pay his attorneys’ fees and expenses in connection with the Investigations, including the outstanding amounts owed to McDermott. This affirmation followed a direct appeal to Trump Organization executives Donald Trump, Jr. and Eric Trump by Mr. Cohen regarding the Organization’s repeated delays in paying his attorneys’ fees and expenses.

32. On information and belief, the Trump Organization continued to pay all or part of McDermott’s invoices for fees and costs incurred in representing Mr. Cohen through at least May of 2018. The Trump Organization continued to represent to Mr. Cohen, at least through June 2018, that it would continue to indemnify Mr. Cohen and pay his attorneys’ fees and costs in connection with the Investigations. The Trump Organization secured the payment of over \$1.7 million of Mr. Cohen’s attorneys’ fees and costs incurred in connection with the

Investigations and other matters, through direct payments, obtaining funding from the Trump Campaign, and/or securing credits from McDermott.

#### **IV. Mr. Cohen Faces Additional Legal Challenges in 2018**

33. Throughout 2018, Mr. Cohen became the subject of additional investigations and legal actions stemming from his work for the Trump Organization. On March 6, 2018, Ms. Daniels filed a lawsuit against Mr. Trump and Mr. Cohen in California seeking to invalidate the Daniels Non-Disclosure Agreement. On March 26, 2018, Ms. Daniels amended her lawsuit to allege that Mr. Cohen defamed Ms. Daniels through public statements that Mr. Cohen made in or around February 2018.

34. On or around March 20, 2018, Ms. McDougal filed a lawsuit against American Media seeking to invalidate the McDougal Non-Disclosure Agreement.

35. On April 5, 2018, when asked if he had any knowledge of the \$130,000 payment made to Ms. Daniels, Mr. Trump stated, “You’ll have to ask Michael Cohen. Michael is my attorney. You’ll have to ask Michael.”

36. On June 13, 2018, Ms. Daniels filed a new lawsuit in California state court against her former attorney, Keith Davidson, and Mr. Cohen, alleging that Mr. Cohen and Mr. Davidson “colluded” and “acted in concert” to “manipulate” Ms. Daniels and benefit Mr. Trump.

#### **V. Mr. Cohen Decides to Cooperate in the Investigations and the Trump Organization Abandons its Contractual Commitment to Mr. Cohen in Response**

37. On April 9, 2018, in connection with a federal investigation of Mr. Cohen’s business dealings conducted by the United States Attorney for the Southern District of New York (the “SDNY Investigation”), the Federal Bureau of Investigation (“FBI”) raided Mr. Cohen’s

Rockefeller Center law office, his personal residence, and a Park Avenue hotel room, seizing business records, emails, documents, tape recordings, and electronic devices.

38. Initially, following the FBI raid, Mr. Trump continued to support Mr. Cohen publicly. On April 9, 2018, after learning about the FBI raid, Mr. Trump stated, “So, I just heard that they[, the FBI,] broke into the office of one of my personal attorneys, a good man, and it’s a disgraceful situation. It’s a total witch hunt. I’ve been saying it for a long time. . . . It’s an attack on our country in a true sense. It’s an attack on what we all stand for.”

39. On April 21, 2018, Mr. Trump tweeted: “The New York Times and a third rate reporter named Maggie Haberman, known as a Crooked H flunkie who I don’t speak to and have nothing to do with, are going out of their way to destroy Michael Cohen and his relationship with me in the hope that he will ‘flip.’ They use . . . non-existent ‘sources’ and a drunk/drugged up loser who hates Michael, a fine person with a wonderful family. Michael is a businessman for his own account/lawyer who I have always liked & respected. Most people will flip if the Government lets them out of trouble, even if . . . it means lying or making up stories. Sorry, I don’t see Michael doing that despite the horrible Witch Hunt and the dishonest media!”

40. On April 26, 2018, in a call-in interview with the FOX News television program “Fox & Friends,” Mr. Trump stated that Mr. Cohen was a “good person” and “great guy” who handled “a percentage of my overall legal work. . . . He represents me – like with this crazy Stormy Daniels deal he represented me. And, you know, from what I see he did absolutely nothing wrong. . . . I hope he’s in great shape.”

41. On May 6, 2018, Rudy Giuliani, also one of Mr. Trump’s personal attorneys, appeared in an interview on the ABC News television program “This Week with George Stephanopoulos.” In the interview, Mr. Stephanopoulos asked Mr. Giuliani, “Are you concerned

at all that Michael Cohen's going to cooperate with prosecutors?" Mr. Giuliani responded, "No. I expect that he is going to cooperate with them. I don't think they'll be happy with it because he doesn't have any incriminating evidence about the president or himself. The man is an honest, honorable lawyer."

42. On June 2018, Mr. Cohen began telling friends and family that he was willing to cooperate with the Special Counsel and federal prosecutors in connection with the SDNY Investigation. The expectation that Mr. Cohen would cooperate with the Special Counsel, following the departure of McDermott as his counsel, was widely reported that month.

43. As Mr. Cohen's anticipated cooperation with the Special Counsel became known, President Trump publicly distanced himself from Mr. Cohen, stating on June 15, 2018, "I haven't spoken to Michael in a long time. . . . [H]e's not my lawyer anymore."

44. On July 2, 2018, Mr. Cohen appeared on the television program "Good Morning America" in an interview with George Stephanopoulos. In this interview, Mr. Cohen signaled clearly that he would no longer maintain his loyalty to Mr. Trump and the Trump Organization. When asked by Mr. Stephanopoulos what he would do if prosecutors forced him to choose between protecting his family and protecting Mr. Trump, Mr. Cohen stated, "To be crystal clear, my wife, my daughter and my son, and this country have my first loyalty." Mr. Cohen further stated, "I will not be a punching bag as part of anyone's defense strategy. I am not a villain of this story, and I will not allow others to try to depict me that way."

45. On July 26, 2018, in an interview with CNN, President Trump's attorney, Rudy Giuliani, who had described Mr. Cohen as "an honest, honorable lawyer" two months earlier, changed course, alleging "He has lied all his life" and describing Mr. Cohen as a "pathological liar."

46. On December 16, 2018, Mr. Trump tweeted, “Remember, Michael Cohen only became a ‘Rat’ after the FBI did something which was absolutely unthinkable & unheard of until the Witch Hunt was illegally started. They BROKE INTO AN ATTORNEY’S OFFICE!”

**VI. The Trump Organization Refuses to Honor its Agreement to Pay Mr. Cohen’s Legal Fees and Costs**

47. In or around June 2018, the Trump Organization ceased to pay McDermott’s invoices, without notice or justification.

48. As a result of the Trump Organization’s wrongful refusal to pay McDermott’s invoices under the indemnification agreement, McDermott ultimately withdrew from its representation of Mr. Cohen. McDermott’s withdrawal prejudiced Mr. Cohen’s ability to respond to the Mueller investigation, the SDNY Investigation, and other matters. A total of \$1,037,868.87 remains owed by the Trump Organization for McDermott’s services rendered to Mr. Cohen.

49. In addition, following McDermott’s withdrawal, Mr. Cohen had to retain additional counsel in connection with the Investigations and lawsuits against him arising from his work on behalf of the Trump Organization and its principals, directors, and officers. These counsel included Petrillo Klein & Boxer LLP; Blakely Law Group; Davis Goldberg & Galper PLLC; and Monico & Spevack.

50. Between June 2018 and the present, Mr. Cohen has incurred and continues to incur legal fees and costs in connection with his representation and defense in the following matters:

Matter	Case Number	Date	Description
House Permanent Select Committee on Intelligence	N/A	5/25/2017	Subpoena by House Permanent Select Committee on Intelligence re connections between the Trump Organization and Russia.
Senate Select Committee on Intelligence	N/A	10/25/2017; Ongoing	Testimony before the Senate Select Committee on Intelligence re connections between the Trump Organization and Russia.
Senate Committee on the Judiciary	N/A	Ongoing	Preparation for potential testimony; response to document requests re connections between the Trump Organization and Russia.
House Committee on Oversight and Reform	N/A	Ongoing	Preparation for testimony re connections between the Trump Organization and Russia.
<i>Stephanie Clifford v. Donald J. Trump, et al.</i>	2:2018-cv-02217	3/16/2018	Stormy Daniels lawsuit against Mr. Cohen re defamation in connection with his payment of Daniels on President Trump's behalf (Certificate of Interested Parties re Michael Cohen filed 3/26/2018).
In the Matter of Search Warrants Executed on April 9, 2018	1:2018-mj-03161	4/13/2018	Motion for temporary restraining order to prevent USAO-SDNY from reviewing evidence obtained by FBI during raid of Mr. Cohen's home and office in connection with criminal cases referenced below.
<i>Stephanie Clifford v. Keith Davidson, et al.</i>	SC 129384 (Los Angeles Super. Ct.) 2:2018-cv-05052 (C.D. Cal.)	6/7/2018	Stormy Daniels lawsuit against her former attorney, Keith Davidson, and Mr. Cohen re collusion arising from Mr. Cohen's payment to Daniels on President Trump's behalf.
<i>Underwood v. Trump</i>	451130/2018 (N.Y. Sup. Ct., N.Y. Cnty.)	6/14/2018	Subpoena issued on 8/22/2018 by N.Y. Attorney General in case against the Donald J. Trump Charitable Foundation, Trump, and others re violation of state charity laws.

Matter	Case Number	Date	Description
Special Counsel Robert Mueller's Investigation	N/A	8/7/2018	Various meetings with Special Counsel Robert Mueller's team re Mr. Trump/the Trump Organization's Russia ties and potential collusion.
<i>United States v. Cohen</i>	1:2018-cr-00602	8/21/2018	Criminal case against Mr. Cohen regarding various counts related to tax evasion and campaign finance laws in connection with his work for the Trump Organization.
<i>United States v. Cohen</i>	1:2018-cr-00850	11/29/2018	Criminal case against Mr. Cohen related to his alleged misleading congressional investigators about the Trump Organization's proposed Moscow project.

(collectively, these matters constitute the "Matters").

51. As of January 25, 2019, unreimbursed attorneys' fees and costs incurred on behalf of Mr. Cohen in connection with the Matters subject to his indemnification agreement with the Trump Organization exceeded \$1.9 million. Attorneys' fees and costs subject to the Trump Organization's indemnification agreement continue to accrue.

**VII. Mr. Cohen Suffers Additional Indemnified Financial Losses Arising from His Service to the Trump Organization and its Principals, Directors, and Officers**

52. On August 7, 2018, Mr. Cohen met with the Special Counsel's team for the first time to provide information in connection with the Mueller Investigation. Between August and November 2018, Mr. Cohen provided more than 70 hours of testimony to the Special Counsel in connection with the Mueller Investigation.

53. On August 21, 2018, Mr. Cohen pled guilty to eight charges in the SDNY Investigation, including campaign finance violations, tax evasion, and bank fraud. These charges

arose from conduct undertaken by Mr. Cohen in furtherance of and at the behest of the Trump Organization and its principals, directors, and officers.

54. On November 29, 2018, Mr. Cohen pled guilty to the additional charge of lying to Congress about the Trump Moscow Project.

55. Mr. Cohen was sentenced on December 12, 2018 for the charges he pled guilty to on August 21. In addition to his prison sentence, Mr. Cohen was ordered to pay fines and other amounts that arose from conduct undertaken by Mr. Cohen in furtherance of and at the behest of the Trump Organization and its principals, directors, and officers and that are also subject to the Trump Organization's indemnification agreement.

56. On January 25, 2019, Mr. Cohen wrote to the Trump Organization and requested that the organization reimburse him for all outstanding amounts owed pursuant to the indemnification agreement, and otherwise. Mr. Cohen's correspondence requested a response from the Trump Organization by February 8, 2019.

57. The Trump Organization has not responded to Mr. Cohen's January 25 request or paid any of the amounts outstanding and owed described above.

### **FIRST CAUSE OF ACTION**

#### **(Breach of Contract)**

58. Mr. Cohen incorporates by reference the preceding paragraphs, as though fully restated herein.

59. Mr. Cohen and the Trump Organization established a valid agreement under which the Trump Organization agreed to indemnify Mr. Cohen and to pay attorneys' fees and costs incurred by Mr. Cohen in connection with the Matters.

60. Mr. Cohen has incurred and continues to incur legal fees and costs in connection with his defense in the Matters.

61. The Trump Organization has refused to pay any of Mr. Cohen's attorneys' fees or costs since May 2018. As of January 25, 2019, the amount of Mr. Cohen's unpaid legal fees and costs in connection with the Matters was approximately \$1.9 million. In addition, Mr. Cohen has been ordered to pay or forfeit an additional approximately \$1.9 million as part of his criminal sentence arising from conduct undertaken by Mr. Cohen in furtherance of and at the behest of the Trump Organization and its principals, directors, and officers. All of these amounts were subject to the Trump Organization's indemnification agreement.

62. By failing to pay Mr. Cohen's attorneys' fees and costs and other amounts incurred in connection with the Matters, the Trump Organization has breached the indemnification agreement.

63. As a direct, foreseeable, and proximate result of the Trump Organization's breach of the indemnification agreement, Mr. Cohen has suffered damages, including, without limitation, incidental, actual, consequential, and compensatory damages. Mr. Cohen is entitled to recover these damages from the Trump Organization, as well as such other appropriate damages and relief permitted by law, all in an amount to be determined at trial.

### **SECOND CAUSE OF ACTION**

#### **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

64. Mr. Cohen incorporates the preceding paragraphs by reference, as though fully restated herein.

65. The indemnification agreement is a valid and enforceable agreement under New York law.

66. As a valid contract between the parties, the indemnification agreement imposes on each party a duty of good faith and fair dealing in its performance and enforcement.

67. After it became clear that Mr. Cohen would cooperate in the Investigations, the Trump Organization took steps to thwart Mr. Cohen's ability to receive amounts he was entitled to under the indemnification agreement and thereby breached its duty of good faith and fair dealing in its performance of the indemnification agreement.

68. The Trump Organization's failure to pay Mr. Cohen's attorneys' fees and costs and other amounts in connection with the Matters has destroyed Mr. Cohen's right to receive the fruits of the contract.

69. As a direct, foreseeable, and proximate result of the Trump Organization's breach of its duty of good faith and fair dealing, Mr. Cohen suffered damages, including, without limitation, incidental, actual, consequential, and compensatory damages. Mr. Cohen is entitled to recover these damages from the Trump Organization, as well as such other appropriate damages and relief permitted by law, all in an amount to be determined at trial.

### **THIRD CAUSE OF ACTION**

#### **(Declaratory Judgment)**

70. Mr. Cohen incorporates the preceding paragraphs by reference, as though fully restated herein.

71. In light of the parties' dispute about the scope of any duty that the Trump Organization has to indemnify Mr. Cohen and pay his attorneys' fees and costs in connection with the Matters, an actual controversy exists between the parties that cannot be resolved absent relief from this Court.

72. Accordingly, Mr. Cohen seeks a declaratory judgment setting forth the scope of the parties' respective rights and obligations under the indemnification agreement, any applicable corporate governance document, and/or on any other basis, including declarations that: (a) the Trump Organization is obligated to indemnify Mr. Cohen and to pay reasonable attorneys' fees and costs and other amounts incurred by Mr. Cohen in connection with the Matters to date under the indemnification agreement, any applicable corporate governance document, and/or on any other basis; and (b) the Trump Organization is liable for all attorneys' fees and costs and other amounts that Mr. Cohen may incur in the future in connection with the Matters under the indemnification agreement, applicable corporate governance document, and/or on any other basis.

#### **FOURTH CAUSE OF ACTION**

##### **(Promissory Estoppel)**

73. Mr. Cohen incorporates the preceding paragraphs by reference, as though fully restated herein.

74. The Trump Organization clearly and unambiguously promised to indemnify Mr. Cohen and, separately, to pay for his attorneys' fees and costs in connection with Mr. Cohen's representation and defense in the Investigations and the Matters.

75. Mr. Cohen reasonably relied upon the Trump Organization's promise, and based on this promise engaged counsel and incurred attorneys' fees and costs in connection with the Investigations and the Matters.

76. As a result of his reasonable reliance upon the Trump Organization's promise and failure to fulfill its promise to indemnify Mr. Cohen and, separately, to pay for his attorneys' fees and costs in connection with Mr. Cohen's representation and defense in the Investigations and

the Matters, Mr. Cohen's defense in the Investigations and Matters was prejudiced and Mr. Cohen has incurred attorneys' fees and costs.

**PRAYER FOR RELIEF**

WHEREFORE, Mr. Cohen respectfully demands judgment against the Trump Organization as follows:

- a) On the First Cause of Action, awarding Mr. Cohen incidental, actual, consequential, and compensatory damages under the indemnification agreement, as well as such other appropriate damages and relief permitted by law, all in an amount to be determined at trial;
- b) On the Second Cause of Action, awarding Mr. Cohen actual, consequential, and compensatory damages for breach of the implied covenant of good faith and fair dealing under the indemnification agreement, as well as such other appropriate damages and relief permitted by law, all in an amount to be determined at trial;
- c) On the Third Cause of Action, adjudging, decreeing, and declaring pursuant to N.Y. C.P.L.R. § 3001:
  - i. the scope of the parties' respective rights and obligations under the indemnification agreement, any applicable corporate governance document, and/or any other basis;
  - ii. as a matter of fact and law, that the Trump Organization is obligated to pay attorneys' fees and costs and other amounts incurred or that may be incurred by Mr. Cohen in connection with the Matters; and
- d) On the Fourth Cause of Action, awarding Mr. Cohen equitable, incidental, actual, consequential, and compensatory damages, as well as such other appropriate

damages and relief permitted by law and in equity, all in an amount to be determined at trial;

- e) On each of Mr. Cohen's four counts, awarding Mr. Cohen pre-judgment interest, post-judgment interest, together with an award of fees incurred in this case (including attorneys' fees), expenses, disbursements, and costs arising from this action; and
- f) Granting Mr. Cohen such other relief as the Court deems just and proper.

Dated: March 7, 2019  
New York, New York

**BINDER & SCHWARTZ LLP**

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