

[ORAL ARGUMENT NOT SCHEDULED]

No. 19-8005

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Senator RICHARD BLUMENTHAL, et al.,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States,

Defendant-Appellant.

On Application for Permission To Appeal from Certified Orders of
the United States District Court for the District of Columbia

**PLAINTIFFS' RESPONSE TO DEFENDANT'S PETITION FOR
PERMISSION TO APPEAL UNDER 28 U.S.C. § 1292(b)**

President Trump has petitioned this Court under 28 U.S.C. § 1292(b) for permission to appeal the district court's orders of September 28, 2018, and April 30, 2019, which denied the President's motion to dismiss this action.

This Court already has indicated its view that the district court's orders "squarely meet the criteria for certification under Section 1292(b)." Order at 1, *In re Donald J. Trump*, No. 19-5196 (D.C. Cir. July 19, 2019) (stating that the cause-of-action question is "unsettled" and that the standing question "arises at the intersection of precedent"). Given that, Plaintiffs do not oppose the President's

petition for interlocutory review, so that this Court can expeditiously review the district court's orders. *See* Mandamus Opp'n 4-24, *In re Donald J. Trump*, No. 19-5196 (D.C. Cir. July 15, 2019) (explaining why the district court's orders are correct).

Indeed, Plaintiffs urge this Court to grant the petition without delay, and to ensure that all steps needed to docket and process the appeal are taken as quickly as possible. *See* Order at 2, *In re Donald J. Trump* (noting that the threshold questions in this case should be resolved “through an *expedited* interlocutory appeal” (emphasis added)). Each day that passes is another day that Plaintiffs are being denied their right—guaranteed in the text of the Constitution—to cast binding votes regarding which, if any, gifts or rewards the President may accept from foreign states. And each day, President Trump is making foreign policy decisions under a cloud of potentially compromised judgment due to his acceptance of unauthorized benefits from foreign governments. For more than two and a half years already, the nation's highest officeholder has been enriching himself with secret financial rewards from foreign powers, depriving the American people of assurance that he is pursuing their interests with undivided loyalty. That is exactly what the Framers adopted the Foreign Emoluments Clause to prevent.

Because Plaintiffs do not oppose the President's petition, and because this Court already has determined that the relevant criteria are met, there is no reason to

wait for a reply or otherwise delay acting on the petition. Instead, the President's petition should be granted at once and this appeal docketed, so that Plaintiffs can conclusively demonstrate their right to bring this case and proceed toward a final judgment ordering President Trump to stop violating the Constitution.

CONCLUSION

This Court should grant the President's petition for interlocutory review and should ensure the prompt docketing and processing of the appeal.

Respectfully submitted,

Dated: September 3, 2019

/s/ Brianne J. Gorod

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CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with Fed. R. App. P. 5(c)(1) because it contains 412 words, excluding the parts of the filing exempted by Fed. R. App. P. 32(f).

I further certify that this filing complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 14-point Times New Roman font.

Executed this 3rd day of September, 2019.

/s/ Brianne J. Gorod
Brianne J. Gorod

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2019, I electronically filed the foregoing document using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: September 3, 2019

/s/ Brianne J. Gorod
Brianne J. Gorod