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April 24, 2025

Via ECF

Scott Harris
Clerk of the Supreme Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: Rachel Cherwitz, et al. v. United States, 24A1031

Dear Mr. Harris:

We are writing to inform the Court that Magistrate Judge Robert Levy issued a decision today in the related proceeding *In re Petition of One Taste, Inc.*, 1:24-mc-02518-DGRML (E.D.N.Y.), holding that the Stolen Privileged Documents at issue here “are in fact privileged.”¹ Ex. A; see Ex. B (related defense filing renewing its request for *Kastigar* hearing). The record here is now entirely clear that the government’s case is tainted. It took possession of privileged material directly related to the subject matter of this prosecution, reviewed it, disseminated it within the government, and relied on it to build its entire case.

¹ Defined terms used herein have the same meaning as in the defendants’ motion to stay.

For the reasons articulated in the defendants' petition for a writ of certiorari and motion to stay, this Court should intervene to prevent evidence and witnesses derived from the privileged material from being presented at trial beginning on May 5th, without the defendants being afforded the basic procedural protections of a *Kastigar* hearing and the right to submit affidavits under *Simmons*. See *Rachel Cherwitz, et al. v. United States*, 24A1031, Application for Stay at 22–23; *Rachel Cherwitz, et al. v. United States*, Petition for a Writ of Certiorari at 19–20 & n.3; *United States v. Prevezon Holdings Ltd.*, 839 F.3d 227, 238 (2d Cir. 2016) (“Adverse use of confidential information is not limited to disclosure. It includes knowing what to ask for in discovery, which witnesses to seek to depose, what questions to ask them, what lines of attack to abandon and what lines to pursue, what settlements to accept and what offers to reject, and innumerable other uses.” (internal quotation marks and citation omitted)).

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Accordingly, this Court should grant the defendants' application for a stay of the May 5th trial date, to afford the Court sufficient time to consider the defendants' petition for a writ of certiorari.

Dated: April 24, 2025

Respectfully submitted,
/s/Michael Robotti
/s/Celia Cohen
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/s/Jennifer Bonjean
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