

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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 In re: : Chapter 11
 ELETSON HOLDINGS INC., : Case No. 23-10322 (JPM)
 :
 Debtor.¹ :
 :
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**DECLARATION OF BRYAN M. KOTLIAR, ESQ. IN SUPPORT OF
ELETSON HOLDINGS INC.’S SUPPLEMENT TO MOTION FOR
ENTRY OF A FURTHER ORDER IN SUPPORT OF CONFIRMATION AND
CONSUMMATION OF THE COURT-APPROVED PLAN OF REORGANIZATION**

I, Bryan M. Kotliar, Esq. hereby declare under penalty of perjury,
pursuant to section 1746 of Title 28 of the United States Code, as follows:

1. I am a partner at the law firm of Togut, Segal & Segal LLP, counsel to Eletson Holdings in the above-captioned chapter 11 case.
2. I respectfully submit this declaration (the “Declaration”) in support of the *Supplement to Eletson Holdings Inc.’s Motion for Entry of an Order in Further Support of Confirmation and Consummation of the Court-Approved Plan of Reorganization* (the “Supplement”)² filed contemporaneously herewith and the related *Eletson Holdings Inc.’s Motion for Entry of an Order in Further Support of Confirmation and Consummation of the Court-Approved Plan of Reorganization* [Docket No. 1605] (the “Motion”).

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 Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119.

² Capitalized terms used but not otherwise defined herein shall having the meanings ascribed to such terms in the Supplement.



3. This Declaration supplements the Kotliar Declaration filed contemporaneously with the Motion. *See* Docket No. 1606

4. Attached hereto are true and correct copies of the following documents:

Exhibit	Description
46.	April 17, 2025 Hearing Transcript in Kithira Arrest Proceeding (S.D. Tex.)
47.	Levona Opposition to Cypriot Nominees' Motion to Intervene in Arbitration
48.	Desimusco Trading Limited's Amended Corporate Disclosure Statement
49.	Fentalon Limited's Amended Corporate Disclosure Statement
50.	Desimusco Trading Limited's Corporate Disclosure Statement
51.	Fentalon Limited's Amended Corporate Disclosure Statement
52.	April 24, 2025 Hearing Transcript in Kithnos Arrest Proceeding (S.D. Tex.)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true to the best of my knowledge.

Dated: New York, New York
April 29, 2025

/s/ Bryan M. Kotliar
Bryan M. Kotliar

Exhibit 46

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KITHIRA GAS SHIPPING COMPANY,)
ELETSON HOLDINGS, INC., ELETSON)
CORPORATION, ELETSON GAS, LLC,)
Plaintiffs,)

CIVIL ACTION NO.
4:25-cv-00755

VS.)

M/V KITHIRA (IMO 9788978), her engines,)
tackle, equipment, and appurtenances,)
in rem,)

and)

FAMILY UNITY TRUST COMPANY, GLAFKOS)
TRUST COMPANY, LASSIA INVESTMENT)
COMPANY, ELAFONISSOS SHIPPING)
CORPORATION, KEROS SHIPPING CORPORATION)
LASKARINA KARASTAMATI, VASSILIS E.)
KERTSIKOFF, VASILEIOS)
CHATZIELEFThERIADIS, KONSTANTINOS)
CHATZIELEFThERIADIS, IOANNIS ZILAKOS,)
ELENI KARASTAMATI, PANAGIOTIS)
KONSTANTARAS, EMMANOUIL ANDREOULAKIS,)
ELENI VANDOROU, in personam,)

3:00 P.M.

Defendants.)

VIA ZOOM

MOTION HEARING
BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE
April 17, 2025

APPEARANCES:

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22
23
24
25
Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 **THE COURT:** Good afternoon. Welcome. This is Keith
2 Ellison. We're on the record in Kithira Gas Shipping Company v.
3 the Claimant.

4 We'll take appearances, Counsel, please. What I want
5 is just the people who plan to speak. I know you've been
6 through the roll call with the court reporter. I just want the
7 people who plan to speak on behalf of Plaintiffs and Claimant.

8 **MR. FLOYD:** Yes, Your Honor, good afternoon. This is
9 Edward Floyd from the Floyd Zadkovich Firm on for the
10 Plaintiffs.

11 **THE COURT:** Thank you.

12 **MR. BARR:** Eugene Barr, Royston Rayzor, for the
13 Claimant. And also with us is Bruce Ruzinsky of Jackson Walker
14 for the Claimant as well.

15 **MR. RUZINSKY:** Good afternoon, Your Honor.

16 **THE COURT:** Good afternoon to both of you.
17 Thank you for your writings. They've been very
18 helpful. Have you discussed how you wish to proceed this
19 afternoon?

20 **MR. FLOYD:** We have not, Your Honor.

21 **THE COURT:** Who is that speaking?

22 **MR. FLOYD:** Your Honor, I apologize. That was Edward
23 Floyd for the Plaintiffs who first said, "We have not."

24 **MR. BARR:** Your Honor, Eugene Barr. We agree, we have
25 not discussed.

1 **THE COURT:** Okay. We have Claimant's motion to vacate
2 the arrest, and Plaintiff's motion to release the vessel. We
3 will start with Claimant's motion to vacate the arrest. In the
4 course of your presentations, I want both parties to give a
5 capsule summary of what you think the effects of the bankruptcy
6 has been upon ownership issues. I'm beginning to think that if
7 it is that unclear, we might want to return to the bankruptcy
8 court and get a clarification. I mean, normally, if there's
9 anything at all that's clear after bankruptcy it's ownership,
10 but there seems to be quite a lot of disagreement about that in
11 this instance.

12 Okay. Mr. Barr and Mr. Ruzinsky.

13 **MR. BARR:** Your Honor, Eugene Barr. Just the way that
14 Mr. Ruzinsky and I are going to handle this, Royston is going to
15 discuss the jurisdictional aspect of our argument as well as the
16 time charter aspect, and then Mr. Ruzinsky will cover the
17 bankruptcy-related items.

18 **THE COURT:** Okay.

19 **MR. BARR:** And so just, you know, from a 20,000-foot
20 view, you know, this is a complex and ongoing shareholder
21 dispute hinging on control of the company Eletson Gas. Eletson
22 Gas was originally a joint venture between Eletson and a private
23 equity fund Blackstone. Blackstone made a substantial
24 investment in Eletson Gas, and in return for that investment,
25 Blackstone received the preferred shares in Eletson Gas. Under

1 the framework of the company agreement for Eletson Gas,
2 preferred shareholders controlled the Eletson Gas board, and
3 that control trickled down to each of Eletson Gas' wholly-owned
4 subsidiaries. There's about a dozen of those subsidiary
5 companies that pertain to a vessel in Eletson Gas' fleet. So,
6 basically, about 12 vessels. Kithira Gas is one of those
7 subsidiary companies.

8 After Blackstone had gotten involved in this JV, they
9 decided to exit the company, and Blackstone sold its shares to
10 another private equity fund Murchinson. And Murchinson in turn
11 headed those preferred shares to its affiliate Levona. Levona
12 is not a party to this case. The Eletson-Murchinson
13 relationship did not go well, and Eletson took the opportunity
14 in March of 2022 to make arrangements for Murchinson's exit from
15 Eletson Gas. And as part of that, two LPG ships were handed to
16 Levona in exchange for the Eletson Gas preferred shares. And
17 then in turn those preferred shares were transferred to three
18 separate entities, Fentalon, Desimusco, and Apargo in March of
19 2022. And those three companies are what we have referred to as
20 the Cypriot Nominees in our briefing, and on whose ultimate
21 authority and instructions we have appeared in this case.

22 Levona, apparently, disagreed with the effect of the
23 transfer of the two vessels, and a dispute arose under the
24 company agreement for Eletson Gas. That dispute was referred to
25 a JAMS arbitration in New York as per the terms of the company

1 agreement. As that arbitration proceeded, things were not going
2 well for Levona and Murchinson. They hedged their bets and
3 cheaply bought up some of Eletson Holdings' debt, and put the
4 company into involuntary bankruptcy in March of 2023. And with
5 the apparent hedge, you know, they lost arbitration. You know,
6 they could -- them being -- turning up as the reorganized
7 Eletson Holdings, and then, you know, perhaps have a favorable
8 position upon, you know, that switch. But Murchinson and Levona
9 not only lost the arbitrations, the hedge didn't work either
10 because the arbitrator had found a year before this bankruptcy
11 the preferred shares were already transferred to the Cypriot
12 Nominees in March of 2022. The arbitration is now the subject
13 of confirmation proceedings in the Southern District of New
14 York, but the arbitrator's findings with respect to the
15 March 2022 transfers of preferred shares to Cypriot Nominees has
16 remained undisturbed to date.

17 There was also a stay relief order that the parties to
18 the arbitration could not do anything to impair the property
19 subject to that arbitration, and this would include Kithira Gas'
20 time charter interested in the Kithira. So that pretty well
21 explains why Levona is not here. But the way that the
22 Murchinson Plaintiffs have couched this lawsuit is that they
23 have emerged as the victors of this bankruptcy and that that's
24 entitled to take over Eletson Gas and its interest in this
25 Kithira vessel. We would -- our briefing, of course, has

1 covered that. You know, we certainly disagree with that. We
2 don't think there's any order or award that's consistent with
3 that. The preferred shares were never part of the bankruptcy
4 estate whenever that bankruptcy action was initiated about a
5 year after the --

6 **THE COURT:** That's the part that puzzles me. Normally
7 in a reorganization -- I know this is a creditor-induced
8 bankruptcy; it got converted by Chapter 11 reorganization --
9 there are some reordering of rights and priorities. And I
10 thought what happened in this creditor-initiated plan was that
11 equity is wiped out and shareholders -- and various creditors
12 became shareholders, which is a very common transformation in a
13 bankruptcy. There's no money to pay the creditors, much less
14 anything left for equity, so equity gets wiped out to be
15 replaced by new equity.

16 Is that not what happened here?

17 **MR. BARR:** Your Honor, if it's okay with the Court,
18 I'll defer that to Mr. Ruzinsky since he's got the bankruptcy
19 expertise.

20 **THE COURT:** Mr. Bruce, how are you?

21 **MR. RUZINSKY:** I'm fine, Judge. Thank you very much.
22 This is Bruce Ruzinsky with Jackson Walker for the Claimant.
23 So, you know, my reading of the confirmed plan is that the
24 shares in the debtor, principal debtor here at Eletson Holdings,
25 were wiped out and new shares were issued and creditors of

1 Eletson Holdings got those at distributions under the confirmed
2 plan. But there was nothing I see in the confirmed plan that
3 changed, got rid of, substituted the ownership interest in
4 Eletson Gas, which is the entity that controls the -- this SME
5 and this vessel. So while there was a change or conversion
6 from, you know, canceling stock and paying creditors in stock,
7 that was not -- those were not ownership interest in Eletson Gas
8 or in the SME, which owns the vessel in dispute here.

9 **THE COURT:** So you're saying the defect in Plaintiffs'
10 argument is that the ownership interests of the vessel were
11 never anticipated in the bankruptcy?

12 **MR. RUZINSKY:** That's correct, Your Honor.

13 **THE COURT:** Because normally common shares and
14 preferred shares are part of -- I mean, they're prioritized, but
15 they're both equity of a different company. It seems odd to me
16 common shares of a company would be in bankruptcy and preferred
17 shares would not be.

18 **MR. RUZINSKY:** So in this case, Your Honor, you had
19 the common shares in --

20 **THE COURT:** Hold on just a second. Hold on a second.
21 We got some interference.

22 Does the court reporter need anything repeated?

23 **THE COURT REPORTER:** No, Judge. Thank you.

24 **THE COURT:** Okay. Carry on, Mr. Ruzinsky.

25 **MR. RUZINSKY:** Thank you, Your Honor. In this case,

1 the common shares in Eletson Gas were owned by this company
2 Levona. And pursuant to the arbitration, those preferred shares
3 were found to be transferred to the Cypriot Nominees as of
4 March 11th, 2022. The common shares in Eletson Gas were the
5 property of Eletson Holdings. And you can see that in the
6 bankruptcy schedules that were filed.

7 **THE COURT:** But the preferred shareholders knew about
8 the pendency of the bankruptcy. Wasn't it their -- was it their
9 obligation to come forward and set forth their arguments as to
10 why the preferred shareholders aren't retaining control?

11 **MR. RUZINSKY:** Well, Your Honor, you're referring to
12 control of a non-debtor entity of which the debtor was a
13 minority interest owner in. And under those facts and
14 circumstances, I don't think there was an obligation on the part
15 of the preferred shareholders to go to the bankruptcy court and
16 clear up anything because the corporate governance was clear.
17 The common shares in Eletson Gas rode through the bankruptcy.
18 Eletson Holdings started with those shares; they ended with
19 those shares; they didn't get any more or less than they had
20 going into it.

21 **THE COURT:** Okay. Well, that's helpful that your
22 argument has some transactional history in the bankruptcy.

23 Let me hear from the other side on that set of related
24 points.

25 **MR. FLOYD:** Thank you, Your Honor. It's Edward Floyd

1 speaking for the Plaintiffs. Of course, we disagree with the
2 description here. I will address that background, but I think
3 as a preliminary point I should note that our position is, and I
4 think it's quite clear, that the claimants are interjecting the
5 preferred shares issue into this proceeding because they want to
6 try and cast this proceeding as being a shareholder dispute. It
7 is not a shareholder dispute in any way, shape, or form. The
8 fact of the matter is, and the reason for that, is that the
9 status quo is that the ownership of Eletson Gas, which then in
10 turn has the entire ownership of Kithira Gas, the ownership of
11 Eletson Gas is currently that the common shares are held by
12 Eletson Holdings, and that the preferred shares are held not by
13 the so-called Cypriot Nominees. And I'll walk through how that
14 works, with the key consideration to keep in mind with respect
15 to that are that the arbitration, the JAMS arbitration award,
16 has not been confirmed. There is no judgment from the Southern
17 District of New York confirming that award, and confirmation of
18 an award is how it becomes enforced. That simply does not
19 exist. And in the S.D.N.Y. confirmation, slash, vacatur
20 proceedings before Judge Liman, the issue that has been raised
21 for vacatur of the underlying award is that there has been fraud
22 before the arbitrator. And so that goes back to the narrative
23 that was in part just described by the claimants' attorneys.
24 What was left out is what has come to light.

25 Circa 2020, Eletson Gas was owned by Eletson Holdings

1 having the common shares and Blackstone entity having the
2 preferred shares. As of April of 2021, maybe a bit earlier,
3 maybe a bit later, Eletson Gas, and the group in general, had
4 financial difficulties. Shifting forward into 2022, Levona
5 purchased the preferred shares from Blackstone, and subsequently
6 a while later, Levona and Eletson Holdings entered into a
7 so-called binding offer letter, a BOL, as they termed it, by
8 which part of the function there was to enable Eletson Holdings,
9 at that time under different ownership, to receive a \$10M loan
10 from Levona. In exchange, Eletson Holdings/Eletson Gas had to
11 transfer some ships, I believe it was two vessels, to Levona,
12 and there was an option, a purchase option. The dispute that
13 went to arbitration was over whether or not that purchase option
14 was exercised. And from the start of the arbitration in July of
15 2022, well into 2023, and I'll get to that in a moment, Eletson
16 Holdings, again still under the old ownership, same people as
17 who are now standing behind Cypriot Nominees, Eletson Holdings'
18 position was that the preferred shares had to be transferred to
19 it, to the entity Eletson Holdings, however, after the
20 bankruptcy proceeding was commenced, and subsequently converted
21 into a voluntary Chapter 11 by Eletson Holdings. So it was not
22 involuntary as things moved forward. After commencement of the
23 bankruptcy proceeding, Eletson Holdings, again, same people as
24 the current Cypriot Nominees, sought a so-called stay relief
25 order from Judge Mastando in bankruptcy court so that the

1 arbitration could proceed. And that stay relief order, from
2 what I understand, I wasn't a part of it, was negotiated on a
3 joint basis. And that stay relief order allowed the arbitration
4 to continue to an award, but very, very expressly said, no
5 enforcement whatsoever. And the exact language is, of course,
6 quoted in our papers and exhibits are annexed. No enforcement,
7 whatsoever, of the award until going back to the bankruptcy
8 court to get an ensuing order. Eventually, the award came on
9 out. And soon thereafter the old Eletson interests took it to
10 the Southern District of New York for confirmation proceedings
11 before Judge Liman. And Judge Liman, while not issuing a
12 judgment to confirm the award, agreed with certain provisions in
13 it, but sent it back on, further procedural matters had to be
14 addressed.

15 But in early 2025, it came to light, and was raised by
16 reorganized Eletson, and the other interests on the other side,
17 that there was very strong indicia of fraud during the
18 arbitration, undertaken by the old Eletson interests. And what
19 that fraud entailed is quite -- alleged fraud, to be clear,
20 entailed is quite important to keep in mind. The essential
21 position, again of the old Eletson Group, had been that the
22 shares, the preferred shares, needed to be transferred to them.
23 And they maintain that position from the start of the
24 arbitration up until nine days after the stay relief order.
25 After the stay relief order went into effect, the old Eletson

1 Group completely shifted their position, and they suddenly
2 invented that the shares needed to go to the so-called Cypriot
3 Nominees. And they have been expressed that the reason they
4 took that change of position, and, again, the language is quoted
5 in our briefing, was that they wanted to effect essentially a
6 "Heads you win, tails you lose" situation. I think I got that
7 analogy wrong there, but basically a problem for the other side.
8 They contended that they had sold that option right to the
9 Cypriot Nominees for 3 million euro, which is far, far less.
10 Talking a fraction of the value of these assets. And there's
11 also zero evidence that a payment of 3 million euro was ever
12 made, and that this was all done pursuant to an oral agreement
13 amongst three Greek families. But, again, no payment made, or
14 anything like that, where this issue that came to light only
15 after the stay relief order was entered.

16 On top of that, it came to light that after commencement of
17 the arbitration, at a point in time when the old Eletson Group
18 was still contending that they had effected the purchase option,
19 they were out there trying to raise money so that they could buy
20 the fleet, which completely undermines that they had ever
21 actually effected the purchase option. So Judge Liman is now
22 dealing in the S.D.N.Y. with a vacatur application on the basis
23 of fraud in the arbitration. Where does that leave us
24 currently? It means that there is zero effect at present to the
25 award. Number one, if it goes back to -- if it's sent back to

1 the arbitrator, I don't know how that would work procedurally,
2 but if it were, then the award needs to be revisited. There's
3 currently no confirmation of it. And even if Judge Liman were
4 to confirm some or all of the award, which we think is highly,
5 highly unlikely, any resulting confirmed award would still have
6 to go over to the bankruptcy court before enforcement by virtue
7 of the still in effect stay relief order. And even if relief
8 were granted to allow enforcement by bankruptcy court, Judge
9 Mastando, then we go back to the plan. And I realize that my
10 adversaries here, my colleagues, that this plan does not deal
11 with the preferred shares; however, at Section 5.2(c) and
12 5.15(a) of the plan, which has been in effect -- the effective
13 date was November 19th of last year, those two sections, and
14 again quoted and annexed to our briefing, do address the
15 preferred shares. They talk about reserved actions that are
16 owned by Eletson Holdings, and that the scope of reserved
17 actions, meaning the right to bring any sort of preference claim
18 or fraudulent transfer claim or voidable transaction claim,
19 whatever one wants to call it and whatever rule or statute one
20 might use, but those are reserved actions and so that Eletson
21 Holdings and the other debtors could still bring those types of
22 fallback claims with respect to the supposed transfer for a 3
23 million euro sum that was never paid to the Cypriot Nominees,
24 who popped out of nowhere to try to throw more sand in the
25 workings here.

1 So the current status quo -- that's redundant -- but the
2 status quo is that the Cypriot Nominees do not own the preferred
3 shares. And anyone and everyone who actually does have a right
4 to claim those preferred shares has sanctioned, has approved,
5 and reorganized Eletson Plaintiffs going forward with the
6 seizure of this vessel because the fact of the matter is they
7 injected \$53.5M worth of new cash into the group, and did an
8 exchange of debt, the range of debt was quite substantial, an
9 exchange of debt for equity, yet they have not received a single
10 penny or revenue from the fleet that they have effectively
11 purchased. That's a fleet of 16 vessels. They haven't gotten a
12 penny from it because all the freight revenue is going to
13 unknown persons and unknown -- largely unknown bank accounts
14 under the control of the so-called Cypriot Nominees and the
15 persons hiding behind them.

16 **THE COURT:** Okay. The thing that puzzles me is how
17 any plaintiff could go forward and not include preferred shares.
18 Was it just not argued? Was it not known? Why were preferred
19 shares not dealt with in the bankruptcy?

20 **MR. FLOYD:** Your Honor, our take is that preferred
21 shares are addressed in the bankruptcy plan by way of the
22 reserve action provisions in 5.2(c) and 5.15(a), which reserve
23 that issue so that if in the unlikely event the Cypriot Nominees
24 were to prevail in the arbitration confirmation process, those
25 shares can still -- the preferred shares could still be clawed

1 back to the Eletson Holdings Group, meaning reorganized
2 holdings, reorganized Eletson, because they weren't purchased
3 for anything, best anyone can tell. And even if some cash was
4 exchanged, it was a fraction of the actual value of the assets.

5 **MR. RUZINSKY:** Your Honor, may I respond?

6 **MR. FLOYD:** Pardon me, Your Honor.

7 **THE COURT:** Just a second, let me stay with Mr. Floyd
8 for a minute.

9 So you're saying it was a part of the conveyance?

10 **MR. FLOYD:** Yes, Your Honor, that the reserved actions
11 provision in the plan preserved as part -- essentially as part
12 of the estate. And I use the word "estate," knowing that this
13 is post-effective date. But the provision in the plan says that
14 it's preserved regardless of -- if the issue is raised after the
15 effective date, that right to fraudulent conveyance was
16 preserved.

17 **THE COURT:** But what puzzles me is why would anybody
18 put in new money and take common share ownership if they were
19 doing it to preferred shares?

20 **MR. FLOYD:** Their view is that they were getting the
21 entirety of everything, Your Honor. Nobody would put in this
22 sort of money not to get the entirety.

23 **THE COURT:** Okay. I think Mr. Ruzinsky wanted to say
24 something?

25 **MR. RUZINSKY:** Thank you, Your Honor. This is Bruce

1 Ruzinsky with Jackson Walker for the Claimant. There are
2 retained causes of action in the plan. It's just a cause of
3 action, right. It's not self-effectuating anything. We have an
4 arbitration that found, and it can't be disputed, but the
5 arbitrator found that the preferred shares are owned by the
6 Cypriot Nominees as of March 11th, 2022. I understand that
7 folks on the other side don't like that, but it is a finding by
8 the arbitrator. And there have been multiple orders of the
9 S.D.N.Y. that have, you know, affirmed or accepted in part the
10 arbitration award, and none of those orders have changed the
11 finding, vacated or changed the finding, that the preferred
12 shares are owned by the Cypriot Nominees as of March 11th, 2022.
13 And, you know, just having a cause of action to go sue somebody,
14 doesn't change the ownership of the shares. And --

15 **THE COURT:** I still don't understand. And I'm sorry
16 I'm being remedial on this point, but why would anybody put in
17 new money and get the common shares if someone else had the
18 preferred shares?

19 **MR. RUZINSKY:** I don't know the answer to that
20 question.

21 **MR. GEORGANTAS:** Your Honor, if I may. This is
22 Dimitri Georgantas, Your Honor. I think a partial explanation
23 for your question --

24 **THE COURT:** Who's speaking? Who's speaking?

25 **MR. GEORGANTAS:** Dimitri Georgantas, Your Honor. Good

1 afternoon. There were more than -- the vessels in the fleet
2 were more than just the Eletson Gas vessels. And I think that
3 detail may have been, you know, left out in the presentation.

4 **THE COURT:** Did the preferred shares give acquiescence
5 to the other holdings, including other ships?

6 **MR. RUZINSKY:** Your Honor, this is Bruce Ruzinsky.

7 **THE COURT:** Let me get an answer from Mr. Georgantas,
8 please.

9 **MR. GEORGANTAS:** The preferred shares that are at
10 issue that we discussed today, Your Honor, refer to the gas
11 vessels that are under the Eletson Gas structure and the SMEs.
12 Those are the vessels that are being, you know, discussed today,
13 or at least, you know, three of those vessels -- or today one of
14 those vessels. Three of them are in the district under arrest.

15 **THE COURT:** Okay.

16 **MR. FLOYD:** Your Honor, this is Edward Floyd. Thank
17 you, Your Honor.

18 **MR. GEORGANTAS:** What I'm trying to say, Your Honor,
19 is that the Eletson Holdings was a larger fleet beyond the
20 vessels that we're discussing today that -- beyond the gas
21 vessel. There were other vessels as well.

22 **MR. FLOYD:** Your Honor, if I may. Two considerations
23 to keep in mind here. Number one, the stay relief order that
24 was entered by the bankruptcy court remains in effect. And
25 while it's described as being a stay relief order, the relief

1 means relief from the automatic stay. But it also stayed any
2 enforcement, whatsoever, of an arbitral award. And so that
3 includes any enforcement based upon findings in the award, or
4 so-called findings in the award. Point number two -- and I
5 actually apologize, I have three. Point number two is old
6 Eletson's attorneys have referred to the award having findings
7 and that they can rely upon that, but I think everybody on this
8 call knows that an arbitral award is just a piece of paper until
9 it's been confirmed, and here it has not been confirmed. And
10 those two first considerations come together with a third one,
11 which is that earlier this year, not very long ago at all, when
12 Judge Liman in the District Court vacatur, slash, confirmation
13 proceedings learned that the old Eletson Group persons had gone
14 off to Greece and on their own, circa February, maybe March, it
15 was February of 2024, and engaged in purported self-help to
16 stealthily, undisclosed try and change the share register and
17 trying and exchange the directorships at Eletson Gas. That was
18 one of the points that was noted by Judge Liman when earlier
19 this year he said, and I'm not precisely quoting, but the old
20 Eletson folks have been going about and making
21 misrepresentations or inaccurate descriptions of what this Court
22 has held and stating that they have the power to do things, such
23 as changing share registers. All of that needs to stop.
24 Everything is getting decided together so that, whether it's
25 confirmation or vacatur, it all goes up to the Second Circuit

1 collectively. And that's where the matter stands right now. No
2 award has been confirmed, therefore, as a matter of law, under
3 U.S. law, the old Eletson people, the Cypriot Nominees, cannot
4 say that they have ownership of the preferred shares. They just
5 don't have it at present. We don't think they'll get it in the
6 future, but they don't have it right now, and that means they
7 lose.

8 **MR. RUZINSKY:** Your Honor, may I respond to that?

9 **THE COURT:** Who's speaking please?

10 **MR. RUZINSKY:** This is Bruce Ruzinsky.

11 **THE COURT:** Yes. Go ahead, Mr. Ruzinsky.

12 **MR. RUZINSKY:** Thank you, sir. I think we cited in
13 our papers that, you know, an unconfirmed arbitration award is
14 still a contract between the parties who agreed to binding
15 arbitration, and cited Second Circuit case law to that effect.
16 Also, the provision from the stay order that was referred to,
17 which I think is number paragraph four, three or four -- number
18 paragraph four that talks about a stay. In Docket No. 67-3, at
19 page 37, I believe the bankruptcy judge was asked to interpret
20 this language, and stated that it -- that that means the parties
21 are prohibited from executing on these. It says there that in
22 addition the Court finds that any potential harm to the debtors'
23 estate is ameliorated by the terms of the stay relief
24 stipulation, which requires the arbitration parties to abstain
25 from executing on the final award absent further order of the

1 Court. We have a very different view of the effect of the
2 arbitration award at this point in time. We don't believe that
3 it goes away, that the findings of that Court go away, and are
4 just to be totally ignored pending the entry of a final
5 arbitration award.

6 And in Docket No. 55-4, on page 90, which was the
7 first S.N.D.Y. order partially confirming the award, the
8 District Judge, Judge Liman, interpreted this paragraph in the
9 stay relief order. And I believe he said there that the stay
10 relief order by its terms does not purport to expand the scope
11 of the automatic stay. And so, you know, the preferred
12 shareholders relying upon a finding of the arbitration, the
13 arbitrator in the arbitration award, they should be able to rely
14 upon that unless and until it's changed; they've got a
15 contractual right, an enforceable contractual right, before
16 there is a final award. And, you know, ultimately the final
17 award will say. But pending the entry of a final award, we
18 believe strongly that you just can't ignore the conclusion of
19 the arbitrator as to who owns the preferred share.

20 **MR. FLOYD:** Your Honor, it's Edward Floyd. If I may
21 speak.

22 **THE COURT:** Yes, you may.

23 **MR. FLOYD:** Thank you, Your Honor. First and
24 foremost, even if that were the law with respect to unconfirmed
25 arbitral awards, that assuredly would not be the situation when

1 there are well-particularized grounds to allege that the award
2 itself was procured by fraud. I mean, that just goes to
3 fundamental law there. A contract that's entered into on a
4 fraudulent basis is not going to be enforceable on any number of
5 different grounds. And here we have a situation where, last
6 minute, they shifted their pleadings and said, hey, these
7 shares, the preferred shares, should be going to the Cypriot
8 Nominees, not to Eletson Holdings because we don't want Eletson
9 Holdings to get them anymore. That's bogus. That is fraud and
10 especially when it comes to light afterwards that they hadn't
11 purchased them; that they were still trying to raise money to
12 purchase them, or at least there's documentation that's been
13 shown to the District Court supporting that. That looks an
14 awful lot like fraud. And no award, even if the law supported
15 what we just said, would be enforceable when there's indicia of
16 fraud.

17 On top of that, the fact of the matter is that whether
18 we're looking at Chapter One or Chapter Two of the Federal
19 Arbitration Act, the way that an arbitral award is enforced is
20 by having it converted into a judgment. Once somebody gets the
21 judgment, then they can use judgment enforcement procedures and
22 hold themselves out as entitled to the relief provided in the
23 award as confirmed by a court judgment. That, of course, being
24 subject to whether or not there's a stay, which there is a stay
25 here by virtue of the stay relief order. But what was just

1 described is simply not the law. An arbitral award on its own
2 is a piece of paper, and is not enforceable until it's reduced.
3 It's not enforced until it has become a judgment and,
4 thereafter, judgment enforcement procedures can be utilized.
5 That was laid out clearly. I know Second Circuit law on this,
6 but in VRG Aéreas -- I apologize. I don't have the full name of
7 that case, but it's from circa 2016, 2017 in the Second Circuit,
8 and explaining how awards are confirmed, and what the proper
9 terminology should be for doing so. And enforcement of an award
10 is getting a judgment. Then you enforce the judgment. Before
11 that, it's just a piece of paper.

12 **THE COURT:** But how could this issue have been missed
13 in the bankruptcy reorganization? It's such a huge issue who
14 owns the shares of that company. Did the parties agree to defer
15 it to the arbitration? Or was it just ignored? Or -- help me
16 on that, would you, Mr. Floyd?

17 **MR. FLOYD:** Your Honor, I was not bankruptcy counsel,
18 so I can't pretend to be intimately familiar with it. But my
19 understanding is that it's because of 5.2(c) and 5.15(a) there
20 was recognition at the time that the plan went into effect that
21 the stay relief order was still effective. And the timeline for
22 continuing effectiveness of the stay relief order ran onwards.
23 It was very clear that nothing could be done with respect to the
24 preferred shares at the heart of the arbitration until somebody
25 went on back to the bankruptcy court and got an order from the

1 bankruptcy court allowing something to be done.

2 **THE COURT:** Well, that makes no sense given -- given
3 the new cash that's been put in by the common shareholders.
4 That makes no sense at all that the common shareholders would
5 put in substantial new cash knowing that they might not even get
6 control of the company for their investment.

7 **MR. FLOYD:** Your Honor, it was not that they wouldn't
8 get control of the company. The arbitration was between -- the
9 arbitration was meant pre-bankruptcy, and was by old Eletson,
10 but prior to reorganization, and under the control of its old
11 owners at that time against Levona. And Levona, in conjunction
12 with the stay relief order -- excuse me, in conjunction with the
13 bankruptcy and putting in its cash to the bankruptcy plan, was
14 getting all of the rights of old Eletson. So even if old
15 Eletson had prevailed in the underlying arbitration, that would
16 have included the preferred shares. What I'm trying to say
17 there, and I recognize it's a complex situation, and we can
18 certainly readdress this if it would please the Court in papers,
19 but the preferred share dispute in the arbitration was between
20 old Eletson, Eletson Holdings, and Eletson Corp pre-bankruptcy,
21 and Levona.

22 **THE COURT:** Okay.

23 **MR. FLOYD:** Old Eletson --

24 **THE COURT:** All right. Go ahead.

25 **MR. FLOYD:** Old Eletson's position up until the stay

1 relief order was that it was entitled to the preferred shares.
2 And so the position is -- the expectation was that those
3 preferred shares were a part of the bankruptcy estate. That may
4 be an issue. It looks like it's an issue for the bankruptcy
5 court ultimately, but as of today, the Cypriot Nominees do not
6 own those shares, and that's all that matters for this case
7 here, is that the Cypriot Nominees don't own the shares at
8 present.

9 **THE COURT:** Okay. All right. Let's go back to the
10 things y'all do want to talk about. Claimant's motion to vacate
11 the arrest. We'll go back to -- Mr. Barr, do you want to talk
12 about that further?

13 **MR. BARR:** Yes, Your Honor. And so I think a lot of
14 the commentary we've had here during this hearing speaks to the
15 heart of our jurisdiction arguments here that, you know, how is
16 this a maritime case? At its heart, it is a shareholder
17 dispute. We're hearing discussions of needing to go back to
18 Judge Liman, needing to go back to the bankruptcy court. You
19 know, we've cited a number of cases that show that, you know, an
20 agreement to enter into a business to operate a vessel is not a
21 maritime agreement. That is precisely what this Eletson Gas
22 Limited Liability Company Agreement is, and that's currently in
23 dispute in New York. They put the cart before the horse, if
24 they even prevail on this by arresting this ship and the two
25 others ones. It's a half baked suit that they're not entitled

1 to bring. And it certainly does not fall under the Court's
2 admiralty jurisdiction. The grasp that -- you know, it goes
3 beyond just their claims on the surface, but also they have a
4 conversion right cause of action, but, again, that emanates from
5 this partnership or this shareholder dispute. This is a land
6 base contract that does not fall within the Court's
7 jurisdiction. And, you know, on top of it, this is a time
8 charter. And the case law is clear that in a Rule D context, a
9 Rule D arrest is available to either an owner or a bareboat
10 charter. Kithira is neither. Kithira, while the charter party
11 does speak to crewing and, you know, responsibilities with
12 relation to where the vessel can and cannot go, owners retained
13 responsibility for the maintenance, inspection, repairs, and
14 insuring of this vessel. This was not a complete handover, as
15 what you would see in a bareboat charter party agreement. In
16 addition, there are a couple of instances, at least within the
17 charter party, where it's clearly stated, this is not a
18 bareboat; it is a time charter. And it was just not a complete
19 handover. And without that, this time charter interest is not
20 even sufficient to invoke Rule D.

21 **THE COURT:** Thank you.

22 Back to Mr. Floyd.

23 **MR. FLOYD:** Yes, Your Honor. I think I've said enough
24 regarding the argument that this is a shareholder dispute. But
25 just to recap there, it simply is not a shareholder dispute.

1 The Claimant's assertion of their claim, effectively a defense
2 of some sort to the converging claim against them, is what tried
3 to interject a purported shareholder dispute into this matter
4 here, but it doesn't have anything to do with it in reality.
5 They can argue that all they want as a defense to the converging
6 claim, but the reality is current status quo Kithira Gas owns --
7 excuse me, Kithira Gas is the charterer; Kithira Gas is wholly
8 owned by Eletson Gas, and Eletson Gas is split between common
9 shares with Eletson Holdings, and the preferred shares with
10 Levona. That's the current status quo under U.S. law. Nothing
11 changes that. This is not a shareholder dispute.

12 On top of that, as far as the jurisdictional argument
13 goes, adverse counsel just mentioned that we have a converging
14 claim too. I don't think that that's at all a crazy converging
15 claim to make when one management company, here Eletson Corp, is
16 the vessel management company. Eletson Corp was a debtor in the
17 bankruptcy court proceedings. Eletson Corp is owned by our
18 clients now. Eletson Corp is one of the plaintiffs. And it's
19 supposed to be the manager of the Kithira, but the Kithira's
20 crew, from the master on down, are not taking orders from
21 Eletson Corp. So whoever they are taking orders from, or the
22 crew themselves, has converted that vessel. We cannot -- I
23 should correct myself. Eletson Corp was not a debtor in the
24 bankruptcy proceeding, but is wholly owned by the debtor,
25 Eletson Holdings. But Eletson Corp is the manager, and it's not

1 able to give instructions, not able to manage the vessel because
2 somebody else had converted it, and that somebody else are the
3 Claimants here. That's a pure maritime claim. There is no
4 legitimate dispute about that.

5 On top of that, Rule D is for petitory and possessory
6 actions. We are seeking -- our clients are seeking possession
7 of this vessel. I think that that is clear as day. And we have
8 a charter that talks about possession, and it talks about -- has
9 clauses by which claimants' counsel just mentioned, allocate
10 responsibility and power for crew control and selection to
11 Eletson Corp. That is not an ordinary time charter by any means
12 whatsoever. Time charters, ordinarily the owner under the time
13 charter, maintains the crew, provides the crew, the charterer --
14 the time charterer does not. Here, there are numerous
15 provisions -- they're all addressed in our papers; I think pages
16 14 through 17 or 18 -- but numerous provisions in this so-called
17 time charter, all of which look an awful like a bareboat charter
18 because it really is a bareboat charter at the end of the day.
19 And even if it were not a bareboat charter, it's a so-called
20 concealed security interest for sale of the vessel. The vessel
21 was originally owned by one entity, sold on back, and then
22 transferred possession via the chartering arrangement. All of
23 those considerations though are within the scope of Rule D. And
24 most importantly, the time charter talks about possession of the
25 vessel and the charterer having possession, as well as

1 appointing the crew, which is how one possesses a vessel.
2 There's no other way to do it, other than arrest. And so this
3 dispute is about -- well, the assertion of rights via Rule D is
4 about Kithira Gas reobtaining, asserting its right possession of
5 this vessel via the crew, which needs to be replaced.

6 **THE COURT:** Okay. Thank you very much.

7 Back to Mr. Barr.

8 **MR. BARR:** Your Honor, back to the jurisdictional
9 aspect of this. I mean, these sorts of arguments have been
10 addressed in cases before the Fifth Circuit, the Dredge La
11 Choncha, and then also the Lady Lucille. And, you know, the
12 gist of it is that, you know, merely characterizing a dispute as
13 possessory or petitory, as the Plaintiffs are doing here, is not
14 enough to turn the case into a maritime matter. I mean,
15 whenever there's a pre-existing business relationship, and
16 there's a dispute pending, such as arbitration, which was also
17 an issue in the Lady Lucille, you know, the Court doesn't just
18 jump in and assert maritime jurisdiction. The parties need to
19 play it out with -- you know, where their shareholder dispute is
20 pending. It doesn't occur just because they're saying we want
21 to take the ship this has automatically become a maritime case.
22 At its heart, it is a land-based business dispute over control
23 of Eletson Gas, and that's already pending in New York. They're
24 basically asking for a third forum here to potentially supplant
25 or usurp what's going on up in New York. And we respectfully

1 believe that Eletson jurisdiction should not be invoked to
2 basically interfere with what's going on already in New York.

3 **THE COURT:** Thank you.

4 **MR. FLOYD:** Your Honor, if may.

5 **THE COURT:** Is this Mr. Floyd?

6 **MR. FLOYD:** Yes. Thank you, Your Honor. A couple of
7 quick things there. The Lucille matter that was just referred
8 to was a ship building dispute. This matter here is about
9 vessel and navigation, or at least which was in navigation and
10 commerce. Ship building disputes, obviously -- I don't think
11 anybody is going to argue that a ship building dispute, just
12 like a vessel sail agreement is not a maritime contract.
13 Likewise, the Dredge La Choncha was a ship sail dispute. This
14 is not like that. This is also not a situation where Mr. Barr
15 referred to there being a pre-existing business dispute. No,
16 there's not. There's no pre-existing business relationship
17 here. There is only -- as Judge Mastando and Judge Liman had
18 said repeatedly, there is only one Eletson Holdings, and on down
19 the chain. Two entities don't come into existence merely
20 because old ownership interest, old equity behind a debtor are
21 dissatisfied with the way a bankruptcy turns out. There's
22 only one for each of these entities. There is no pre-existing
23 business dispute. What this is about is people who should not
24 be able to appoint crew and have no right to appoint crew, have
25 inserted themselves and usurped the right, the power, to do so.

1 And whatever happens in a bankruptcy proceeding, and the
2 arbitration vacatur proceedings, and so forth, there's one thing
3 that everybody can be very, very certain of, these folks on the
4 other side are going to sail that ship, if they ever get their
5 hands back on it, around the world and keep it as far away from
6 the reach of anyone, other than themselves, who would prevail.
7 And we also believe that we will ultimately prevail in whatever
8 is going on up here in New York.

9 They're never bringing that ship back. We've gone
10 through in our papers and pointed to the various instances where
11 they have gone to great lengths and unsafe lengths, to be clear,
12 to prevent arrests. Down in Panama, with a ship called the
13 Kimolos, they tampered with the AIS system and had the ship's
14 AIS, the satellite system that shows where a ship is, and is
15 part of the whole safety management program, IMS code --ISM
16 code, excuse me, they projected it on the other side of the
17 Panama Canal just to try to avoid an arrest. And up here in the
18 U.S., another ship, Kinaros, was scheduled to come on in and
19 pick up 300,000 barrels of crude. And what did they do when
20 they saw minutes after, maybe an hour after an arrest
21 application was filed? They turned the ship around and she
22 sailed off, and she's floating around the Caribbean. First
23 floating in the direction of Jamaica, and now it's just floating
24 around doing nothing. I don't know what happened to that
25 charter revenue. It's quite concerning considering that we own

1 the vessel. This ship is never coming on back, and we need to
2 hold onto it now; otherwise, the good things that the creditors
3 in the bankruptcy proceeding did, injecting \$53.5M in exchange
4 in debt for equity to resuscitate a fleet, they're never getting
5 any of those ships on back. And that would be a crying shame.
6 It would be a travesty in this situation. It's not how anything
7 in the U.S. is supposed to work.

8 **THE COURT:** Okay. Thank you. I've got to take a
9 break to deal with my 4:00 docket. Don't go way. It will be
10 about ten or fifteen minutes. Thank you.

11 (Whereupon, a pause was held in the proceedings.)

12 **THE COURT:** Okay. This is Ellison. I'm back.

13 Mr. Floyd, are you there?

14 **MR. FLOYD:** Yes, Your Honor, I am. Ed Floyd here.

15 **THE COURT:** Mr. Barr, are there?

16 **MR. BARR:** Yes, Your Honor.

17 **THE COURT:** Mr. Ruzinsky?

18 **MR. RUZINSKY:** Yes. Yes, Your Honor, I'm here.

19 **THE COURT:** Okay. Mr. Georgantas.

20 **MR. BARR:** I think he'll be back in a minute, but
21 we're happy to proceed, Your Honor.

22 **THE COURT:** Okay. We haven't talked about Plaintiff's
23 motion to release. It seems like both sides agree that we
24 shouldn't release the vehicle, and sort of back and forth as to
25 what we do with the crew and the proceeds of any money that the

1 ship earns while it's released.

2 But, anyway, it's Plaintiffs' motion. You could
3 begin, Mr. Floyd.

4 **MR. FLOYD:** Your Honor, I apologize. I just couldn't
5 hear the question there to me.

6 **THE COURT:** I said, it's your turn. You can go first.

7 **MR. FLOYD:** Oh, on the vessel release.

8 **MR. RUZINSKY:** Your Honor, and I apologize for
9 interrupting. This is Bruce Ruzinsky. It's a question for the
10 Court. Is the Court -- does the Court want to hear or will
11 entertain any more input on, you know, what we were addressing
12 before or does the Court consider that done and we're moving on
13 to the next matter?

14 **THE COURT:** I want to go to the Plaintiff's motion for
15 release, and we'll circle back at the end to whatever unfinished
16 business there is.

17 **MR. RUZINSKY:** Thank you, Your Honor.

18 **MR. FLOYD:** Thank you, Your Honor. Yes, Your Honor,
19 Edward Floyd speaking for the Plaintiffs. Motion to release, I
20 don't think it's in dispute that the Court has the power to do
21 so under Rule E(5). You're authorized to release under
22 conditions that the vessels -- otherwise, this vessel is a
23 wasting asset that is not in anybody's best interest. That does
24 not appear to be in dispute that the Court has the power to do
25 so. Our approach to making that, and the reason that we have

1 made that motion, is to prevent ongoing waste. But in order for
2 there to be a release, there needs to be substantial mechanisms
3 in place to protect the Plaintiff's position. And given these
4 slew of instances, which are just some of the circumstances that
5 are out there that I just recently described, the actions
6 messing around with AIS system down in Panama, turning a vessel
7 that was supposed to pick up crude in Texas around to avoid an
8 arrest, and also even with the three vessels that have been
9 arrested, seized under Rule D in Texas already, waiting until
10 odd hours of the night to then come on in to berth, and that all
11 being supplemented with things that have occurred elsewhere in
12 the world with the old Eletson interests, the so-called Cypriot
13 Nominees, going around and telling other forum that they have
14 the right to do various things, such as reappoint directors and
15 change shareholder registers. We have very, very substantial
16 concerns. Indeed, we don't expect that the ship would ever come
17 back if crew loyal -- either loyal to our clients or completely
18 neutral; we're not on there. And that's why our motion proposes
19 protective considerations, but I won't reiterate them all here
20 right now. They're obviously in the papers. But first and
21 foremost, the crew, from the master on down, needs to be
22 replaced so that the vessel is loyal to the management company
23 that is actually the management company, that being Eletson
24 Gas -- excuse me, Eletson Corp.

25 Likewise, as far as revenue goes, the vessel is going

1 to earn revenue. We have proposed that that revenue come on
2 into some type of an escrow arrangement, which can then be used
3 to pay actual operating costs (OPEX). And I'm sure some details
4 will need to be worked out on the OPEX, what's in, what's out,
5 and so forth, but that would seem very, very doable. And then
6 in terms of how to agree upon -- I mean, how to choose what
7 voyages, what charters the vessel should undertake. The
8 proposition proposal that we've made in our papers was a
9 commercial -- what we think is a commercially reasonable one.
10 We thought about, you know, how do you figure out what's the
11 best charter to take; what's the best voyage to do from a
12 revenue perspective when you have potentially competing
13 interests out there. And the proposal I put forward was to have
14 a panel of four respectively appointed by the competing parties,
15 four brokers, and essentially choose whatever would be the best
16 rate. Frankly, if it was a single broker from one of the big
17 shops out there, if there's any -- well, there's a handful of
18 them. But one of the large major brokerage houses, that would
19 likely be acceptable as well. And then we do think it's
20 important to have trading restrictions on this ship. But that's
21 kind of the four prongs of what we see as precautions to make
22 sure that the ship doesn't abscond from an arrest. Obviously,
23 it's quite concerning to get a ship back underway when it's
24 under arrest and you expect it won't ever come back if you don't
25 have protections in there. That's why she had to be arrested in

1 the first place. We think the proposal is quite a reasonable
2 one. And given the circumstances, and the way that the
3 so-called Cypriot Nominees, and people behind them who have been
4 sanctioned, subjected to sanctions in the bankruptcy court, have
5 conducted themselves, it's exceedingly reasonable to make those
6 types of proposals and have those concerns.

7 **THE COURT:** Thank you very much.

8 **MR. FLOYD:** Thank you, Your Honor.

9 **THE COURT:** Mr. Barr.

10 **MR. GEORGANTAS:** Your Honor, Dimitri Georgantas, if I
11 may respond.

12 **THE COURT:** Yes, you may.

13 **MR. GEORGANTAS:** So a lot of wild and unfounded
14 allegations from Mr. Floyd. And these are coming from, number
15 one, the folks that arrested the vessel and vessels, the other
16 two, in the first place, and now describing it as a wasting
17 asset. So having created the situation in the first place and
18 having prolonged this process, they're now coming and offering
19 to release the vessel, but it's an obvious and faintly failed
20 total suggestion. What they're really asking is a backdoor way
21 to take possession of the vessels or take the keys to these
22 vessels by basically putting their own crew and all the other
23 things that they are suggesting.

24 First of all, I would respectfully remind the Court
25 that these allegations about the wrongdoing that our folks have

1 been doing with these vessels, they're coming from a group of
2 people that the arbitrator described, and this is the arbitrator
3 that actually heard and saw witnesses, described them as acting
4 in bad faith, deceitful, wanton, and in a corrupt manner in
5 which Levona treated the Claimant. That's a pretty close quote
6 from what the arbitrator said. So these allegations and
7 mudslinging, that's where they're coming from.

8 Beyond that, and with respect to the three vessels
9 being here at the anchorage in the middle of the night, and
10 whatever other conspiracy theories they're throwing, there's a
11 number of reasons why vessels aren't at the anchorage: Cargo is
12 not available; the terminal is not available because there's
13 another vessel waiting; vessels come and go at all times of the
14 night subject to availability to come in and load. None of that
15 was explained. It was conveniently omitted from counsel's
16 presentation. What is undisputed though in this district is
17 three orders have been issued, one by Your Honor, the other two
18 by magistrate judges in Corpus Christi with respect to these
19 vessels, and they were in line with producing documents, sending
20 regular reports to the custodian in terms of, you know, safety
21 concerns. And on one occasion, the vessel, Ithacki, which was
22 arrested off the coast of Point Comfort, had to physically move
23 to Corpus Christi in order to be able to be supplied easier from
24 logistics. There was an agreed order that was signed, but in
25 order to make this journey of whatever it was, four or five

1 hours, safely, she had to leave the jurisdiction of the court
2 necessarily just because of the distance. Nonetheless, she
3 left, and she went into Corpus just as promised. Bottom line is
4 that all three court orders that were actually issued in this
5 district were complied with by the claimant with respect to all
6 three vessels.

7 This is not the first time that they've tried to
8 replace the crew. Their initial attempts, including in this
9 court, were to replace the master with allegations or
10 non-cooperation, and all kinds of other issues that they were
11 throwing out. And, of course, all three requests were denied by
12 the Courts, including yourself. That was some time ago. No
13 problems have taken place since then. So in terms of our
14 credibility here, we find it a bit - it's not a lot disingenuous
15 on the position that somehow the people that have done what was
16 described by the arbitrator are now trying to, you know, paint
17 us in that picture.

18 With respect to some of the proposals that have been
19 made, while we agree the Court has discretion in terms of the --
20 the terms of the vessel release, what they're requesting, Your
21 Honor, is without precedent. And, of course, there were no
22 cases that they could really point out to or have this what
23 amounts to an interim award that they take possession of the
24 vessel or vessels with their own crew, and they basically get to
25 operate them while a decision is made. The only case that

1 remotely addresses this, the vessel was released back to the
2 claimant, albeit not in exact circumstances, for the claimant to
3 operate. So to the extent the Court wants to entertain some
4 discussion with respect to releasing the vessels with certain
5 provisions, we are here to discuss those. A preliminary
6 discussion in fact took place a couple of days ago. But what
7 they're proposing is just sort of outrageous in terms of
8 basically taking possession of the vessels in an interim manner
9 and displacing us when we believe we are the rightful possessor
10 at this point and all these are wrongful arrests.

11 That's sort of the short version of our response to
12 what they're requesting and, you know, highlighting the points
13 or the three court orders that were all complied with in this
14 district. Some of the comments that they've made about
15 geographic limits, that would not really make any sense. Once
16 the vessel is out of the jurisdiction, she's out of the
17 jurisdiction, whether she is in the Caribbean or in Rotterdam,
18 I'm not sure what difference that would make. Presumably, the
19 vessel should go to maximize profit, so if a charter party shows
20 up that that's the best and more profitable, that would be the
21 consideration. The change in the crew, of course, is tantamount
22 to giving them possession, Your Honor. That is without
23 precedent, and we would respectfully ask the Court not to start
24 this sort of dangerous precedent.

25 **THE COURT:** Mr. Georgantas, do you have a

1 counterproposal to make?

2 **MR. GEORGANTAS:** We have put in our response a rough
3 counterproposal, whereby, potentially the Court would entertain
4 that the vessel would operate under the existing crew or, in
5 event, our crew and whatever replacements are made; that we
6 would agree to an escrow account that would be maintained in the
7 District so that funds would be within the jurisdiction of the
8 Court; we have also suggested that we will provide them with
9 reports of the vessels' location, I think maybe once every two
10 weeks, so they know where all the vessels are going or sailing.
11 We have also made the proposal that this escrow -- from this
12 escrow account, there should be an escrow agent or trustee, or
13 whatever will end up following this person, the shipping veteran
14 that knows about shipping. And from those revenues that the
15 vessel or vessels will generate, of course, the first thing that
16 would be paying is the charter hire, and then the vessels' OPEX,
17 which is basically the acronym for operation of expenses for the
18 vessel. And then all this, of course, would be documented to
19 the trustee. And then whatever remains after all the OPEX
20 expenses are paid, presumably we would stay pending resolution.
21 By way of further commitments, we have even offered that they
22 can keep a representative of a custodian on board the vessel.
23 But I don't know if that would give them any extra, you know,
24 comfort, but certainly that is something that we have offered to
25 them with respect to all these wild allegations that we're going

1 to abscond with a vessel and disappear. Those are roughly the
2 counterproposals that we made to them. And, again, there was a
3 preliminary discussion, I think a couple days ago, which is in
4 the very early stages. But, again, we see that as sort of a
5 last resort solution, Your Honor. We think that proper
6 arguments have been made with respect to the lack of maritime
7 jurisdiction, and also with the ownership, what I think is the
8 current ownership of the Eletson Gas preferred shares.

9 **THE COURT:** Your client has no intent to keep the
10 vessel currently beyond the jurisdiction of this Court, right?

11 **MR. GEORGANTAS:** What is being proposed, Your Honor,
12 is for the vessel to be allowed to trade. And in order to do
13 so, they would necessarily leave the jurisdiction of this Court.

14 **THE COURT:** No, I know that but will you undertake
15 that your -- the vessel will never be kept out of the
16 jurisdiction of the Court permanently in order to defeat the
17 orders of the Court?

18 **MR. GEORGANTAS:** No. I mean, I think, if I'm
19 understanding what you're saying, if you issue an order and you
20 say, come back, then, yes, we -- subject to, you know, cargo
21 obligations, as soon as practicable, then the vessels would
22 return.

23 Did I understand your question correctly?

24 **THE COURT:** Okay. That's what I needed to hear.

25 Thank you very much, Mr. Georgantas.

1 Do you want to respond, Mr. Floyd?

2 **MR. FLOYD:** Yeah, I absolutely do, Your Honor.

3 There's a number of points to hit on here. First, if I heard
4 things correctly, I believe Mr. Georgantas said that Eletson
5 Corp would be managing the vessel. And I know that they're
6 going around the world telling some people, as I believe it's
7 happening in Panama, that they're Eletson Corp, but there is
8 absolutely zero question about who Eletson Corp is. We are.
9 Eletson Corp is 100 percent owned by Eletson Holdings. Eletson
10 Holdings was one of the debtors in the bankruptcy. And the
11 bankruptcy plan is expressed, that all interests of Eletson
12 Holdings and its subsidiary vested in reorganized Eletson
13 Holdings. We are Eletson Corp. That argument alone, if I heard
14 it correctly, underscores the very real concerns that we have
15 that this ship is never coming back. If it is set sail, allowed
16 to set sail, with the current crew under the control and taking
17 instructions from people who we don't even know who they are,
18 it's never coming on back.

19 On top of that, as far as suggesting that because they
20 allowed that there was an agreement to allow the Ithacki to move
21 from Victoria over to Corpus Christi to be able to get supplies,
22 number one, that was a very short move; number two, it was at
23 the request of the custodian, who had a representative on board
24 as well. And one of the reasons why it needed to be done was
25 the vessel was very, very low, as in hours remaining, of fuel.

1 So the vessel couldn't go really anywhere or get bunkered
2 offshore because it didn't have anywhere to go; it didn't have
3 enough fuel. So that's not a good argument there.

4 To suggest that it's just plain and ordinary for ships
5 to undertake the types of maneuvers and twistings that the
6 Kimolos, in Panama, and the Kinaros, who was the ship off of
7 Texas that ran the arrest order, undertook is preposterous.
8 Nobody with good intention turns off their AIS, let alone
9 somehow spoofs -- I'm not a tech person, but make an AIS show
10 the ship as being on the west coast to Panama, when she's
11 supposed to be on the east coast, or vice versa. That's just
12 plain unsafe, and it's done with bad faith and nothing else.

13 That's the sort of stuff ships do when they want to engage in an
14 illegal ship-to-ship transfer of sanction cargo. It's bad
15 stuff. And it is indicative of the type of people who are on
16 the other side standing behind the so-called Cypriot Nominees.

17 What was to critique us, the Plaintiffs here, for
18 making an application to get this ship underway back into
19 trading is preposterous. It's perfectly ordinary and logical
20 this ship is under arrest. We contend that we own the ship --
21 excuse me, we contend that we are the proper charterers of the
22 ship and want to get her back into service so that she can
23 trade, make money, and the money goes into a safe spot. I
24 thought that it was extremely interesting that Mr. Georgantas
25 described his client as being in, quote, rightful possession of

1 the ship. That language "rightful possession" harks back to and
2 undermines each and every argument that they have made in
3 support of their vacatur motion contending that this not a
4 proper Rule D, a Delta. It is because it's about possession.
5 We're the ones who are entitled to possession under the time
6 charter. We just heard Mr. Barr saying that the time charter
7 doesn't give possession, or something like that. This is all
8 about possession. Rule D is proper. That needed to be pointed
9 out, the same way when Mr. Georgantas said that changing the
10 crew equaled possession. Both of those points hark back to this
11 thing about possession, and possession is the fundamental part
12 of a petitory or possessory action.

13 The last thing is just to close that up pretty quickly
14 here, Your Honor. We don't take their words. I don't think the
15 word of Mr. Georgantas' client or Mr. Georgantas saying, subject
16 to cargo obligations, and subject to being as soon as possible,
17 and a bunch of other things, is sufficient in any way shape or
18 form to satisfy the concerns that are out there, and very real
19 concerns. They're all subject to this, that, and the other
20 thing. And they are coming, not from Mr. Georgantas, of course,
21 but any such representations by his clients, are coming from
22 people who have been sanctioned for not following orders in the
23 S.D.N.Y. And they've gone around the world and done all types
24 of different things that have led to functions, including \$5,000
25 a day sanctions against them. Their word is worthless and

1 should not be trusted.

2 Our clients, I expect, actually I'm quite certain,
3 would be open to an independent manager being appointed to come
4 on in and manage the ship. We believe it should have been, and
5 should be, Eletson Corp, and down the road we'll be back in
6 proper possession of the ship. But if not, we do not want their
7 crew and their master, and anyone who has their ear, or whose
8 ear they have, being in possession of that vessel. An
9 independent, completely respectable third-party management
10 company could be put in possession of the ship and appoint the
11 crew, that would be acceptable. We think that Eletson Corp and
12 our clients would be perfectly fine to do that as well. But if
13 it needs to be an independent third party, so be it. And as far
14 as an escrow account, I don't think that there's huge divergence
15 there. The parties would probably talk on through the
16 parameters, so I won't waste the Court's time with that.

17 **THE COURT:** Okay. Thank you very much.

18 Mr. Georgantas, do you want another turn?

19 **MR. GEORGANTAS:** Yes, Judge, a response. First of
20 all, I don't believe I ever used the word "Eletson Corp," so I
21 think Mr. Floyd may have misstated what I said just initially.
22 In addition to that, the -- his argument about possession, I
23 think, is being misconstrued. It is beyond dispute that the
24 claimant right now is controlling the vessel and is the
25 possessor of the -- of the vessel by way of the time charter.

1 So to try to twist that around as some kind of an admission that
2 the Rule -- that somehow that validates the Rule D is beyond
3 description. They're the ones that are asserting the Rule D
4 proceeding, and we're the ones that are saying that they're not
5 entitled to that. We are already, as Claimant, the time charter
6 of the vessel. So that argument that Mr. Floyd just presented
7 should just be discarded outright. You know, they have not met
8 the Rule D standards for the maritime jurisdiction with respect
9 to the underlying dispute, the underlying agreement.

10 The suggestion, again, of trying to paint the Claimant
11 here in a negative light in terms of where we might go or what
12 we might not do, again, playing with words. When I told Your
13 Honor if we were told to come back subject to cargo, you may
14 issue an order and you're going to say, you know, I want this
15 ship back here, Mr. Georgantas, by such and such date. If we're
16 discharging cargo somewhere, we would have to finish operations
17 before we were able to return. That was a logistic comment; it
18 was not to be taken the way Mr. Floyd tried to kind of twist it
19 around that we would use that as an excuse.

20 With respect to the sort of, quote, independent
21 manager, these are highly, highly sophisticated vessels, Your
22 Honor, in terms of their operation. And we do not believe that
23 there's anyone out there that is as capable of operating these
24 vessels as the Claimant is right now. And I'm talking about
25 this vessel, but, by extension, the other vessels as well. They

1 have all the proper certificates, all the management systems in
2 place, all the proper insurances. It is evident with all the
3 documents we have produced to the custodian. And we think what
4 their request amounts to, again just to really emphasize that
5 point, is another backdoor attempt to take control and
6 possession of the vessel by way of, you know, putting in their
7 own crew and basically asking you to give them the keys to this
8 vessel and presumably by extension the other vessels as well.
9 We think our proposal makes sense. It's credible. And any
10 court order by a Federal Court will have plenty of teeth in
11 terms of any potential violation.

12 **THE COURT:** Okay. Thank you very much.

13 **MR. GEORGANTAS:** Thank you, Your Honor.

14 **THE COURT:** I think we've ventilated that subject
15 pretty well.

16 Mr. Ruzinsky, do you have something else you want to
17 say about bankruptcy?

18 **MR. RUZINSKY:** Yes, Your Honor. Thank you. This is
19 Bruce Ruzinsky with Jackson Walker. A few things. First of
20 all, Your Honor had asked the question about, folks could have
21 invested under the present circumstances, I think, with the
22 arbitration award. And, you know, the plan was filed a year
23 after the arbitration award or confirmed a year after the
24 arbitration award. And so the folks who invested money pursuant
25 to the plan knew of the findings of the arbitrator, the very

1 clear findings, that the preferred shares were owned by the
2 Cypriot Nominees as of March 11th, 2022. And I don't know what
3 was in their mind at the time, but it seems like they -- that
4 they may have made some assumptions or may have made an economic
5 choice and a bet, and without knowing what the outcome was going
6 to be, but knowing what the arbitrator had already found. And,
7 you know, time will tell whether or not that was a poor choice
8 or a better choice. They'll find out later.

9 Eletson Holdings did not control Eletson Gas, but
10 Eletson Gas controls the SME and this vessel. The plan in the
11 disclosure statement does not mention this vessel or this SME.
12 There was a -- there was a comment from opposing counsel earlier
13 about retained causes of action and a fraudulent transfer claim.
14 I don't understand and appreciate how there would be a
15 fraudulent transfer claim for something that was never owned by
16 the debtor. Eletson Holdings never owned, ever owned these
17 preferred shares. And under a fraudulent transfer claim, I
18 think you've got to have either a transfer of an interest of the
19 debtor and property or you got to have the incurrence of an
20 obligation by the debtor. And I don't think we've got those
21 here, so I'm having trouble understanding how there's a belief
22 on the other side that there's some fraudulent transfer claim
23 that is going to bring back these shares or transfer these
24 shares into Eletson Holdings when it never owned any of these
25 preferred shares to begin with.

1 And lastly I want to, you know, comment on the -- I
2 think it was a statement made by opposing counsel that an
3 unconfirmed arbitration award is just a piece of paper. And
4 that's not correct. And as I had mentioned, I think in at least
5 one case earlier, and -- along the Second Circuit, an
6 arbitration award has legal force only because the parties have
7 elsewhere promised to be bound by it. That is in *New York State*
8 *Nurses Association Pension Plan v. White Oaks Global Advisors,*
9 *LLC.*, 102 F.4th 572, at pages 595-96; it's a (2024), Second
10 Circuit case. Also an unconfirmed arbitration award is a
11 contract right. That is *Stafford v. International Business*
12 *Machines*, 78 F.4th 62, at page 68 (2023), Second Circuit.
13 Section 12.14 of the LLC Agreement, which is Docket No. 55-1, at
14 page 74, provides for binding arbitration to resolve all
15 disputes. The parties agree that the arbitration as provided in
16 this Section 12.2 shall be the exclusive and binding method for
17 resolving any such dispute and will be used instead -- used
18 instead of any court action, which is hereby expressly waived,
19 except for any action to compel arbitration or obtain judgment
20 on an arbitration award pursuant to Section 12.14. And the
21 S.D.N.Y. acknowledged this when confirming the award in part in
22 Exhibit 55-4, pages 51 through 53, citing to an older Second
23 circuit case in *FloraSynth, F-L-O-R-A-S-Y-N-T-H, Inc. v.*
24 *Pickholz, P-I-C-K-H-O-L-Z*, 750 F.2d 171, at page 176, (1984),
25 Second Circuit case, for the proposition that an unconfirmed

1 award is a contract right, and found that the parties to the LLC
2 Agreement were entitled enforce the arbitration provision and
3 any award obtained through it. So to say that an unconfirmed
4 arbitration award is just a piece of paper is not consistent
5 with the controlling law on this issue. Thank you, Judge.

6 **THE COURT:** Thank you.

7 Anything more, Mr. Floyd?

8 **MR. FLOYD:** Yes, please, Your Honor. And I will try
9 to keep it brief. On the issue of an arbitration award as a
10 contract right, none of that contradicts the basic proposition,
11 and it is consistent with everything since Federal Arbitration
12 Act came into existence, that the way that right, whatever one
13 wants to call it, an award or a contract right, the way it gets
14 enforced is by confirmation, and that's the distinction there.
15 Here, and I think it's helpful to quote, there was -- it's
16 paragraph four of the stay relief order, which is in our papers.
17 But stay relief order from the bankruptcy proceeding, April
18 something from 2023, states, quote, any arbitration award,
19 whether in favor of any arbitration party, shall be stayed
20 pending further order of the bankruptcy court on a motion
21 noticed following the issuance of the arbitration award. So
22 avoidance of doubt, no arbitration party shall transfer, dispose
23 of, transact in, hypothecate, encumber, impair, or otherwise use
24 any such arbitration award or any asset or property related
25 thereto, absent a further order of this Court, end quote. There

1 is no further order of the bankruptcy court authorizing the
2 Cypriot Nominees or the old Eletson people to use the
3 arbitration award, which is precisely what they're trying to do
4 here. That award is stayed for all purposes until it goes back
5 to the bankruptcy court.

6 That also explains what was going on with confirmation
7 of the plan. The creditors with whom Levona is affiliated, the
8 creditors knew that whatever happened in the bankruptcy -- in
9 the arbitration proceeding, there was the ultimate backstop of a
10 stay, somebody had to go back to the bankruptcy court to get a
11 new order regarding anything use of the arbitral award. On top
12 of that, Mr. Ruzinsky says he doesn't understand how there might
13 be a fraudulent transfer involved here. You know, that's down
14 the road, and in a different court, and everything like that,
15 but it does harking back to the arbitration award and needing to
16 go -- excuse me, to the stay order and more importantly to the
17 provisions of the plan in dealing with the reserve causes of
18 action, the reserved action. There most definitely would be a
19 claim for fraudulent transfer or fraudulent conveyance or
20 preference action.

21 Eletson Holdings' initial position in the arbitration
22 running up until March or April of 2023, when the stay relief
23 order was issued, was that Eletson Holdings had exercised the
24 option to purchase the preferred shares. Those preferred shares
25 would therefore be a part of the estate. That representation is

1 consistent with an affidavit that Mr. Kertsikoff, which is one
2 of the many people associated with the old Eletson team, put in
3 in the arbitration and said, quote, in paragraph nine from a
4 Kertsikoff arbitration, quote, prior to March 11th, 2022,
5 Eletson Holdings was a common unit holder. As of
6 March 11th, 2022, Eletson Holdings became the sole unit holder
7 of the company by reason of the transaction that respondent
8 Levona Holding Ltd appears to be challenging. So
9 Mr. Kertsikoff, and I think he signed some of the verifications
10 in this proceeding, or the others, was contending that Eletson
11 Holdings held the preferred shares. If those preferred shares
12 or the rights to take them was transferred to the so-called
13 Cypriot Nominees, either for undervalue or for no actual value,
14 despite an oral agreement supposedly to pay 3 million euro,
15 which is a fraction of what the value was, that does sound an
16 awful lot like a fraudulent conveyance or a fraudulent transfer,
17 in fact I think it sounds --

18 **THE COURT:** Okay. Okay. I've heard enough. Thank
19 you.

20 Gentlemen, I'll work on this dutifully, and I'll reach
21 a decision eventually, as quickly as I can. It would make a lot
22 more sense in the interim for you to try and agree on what we're
23 going to do with this ship, than my trying to craft a short-term
24 solution. It makes more sense to the issues of the vessel and
25 much more sense to the issues of personnel than I would ever be.

1 I really urge you to try to get together on that. I do agree
2 that it's crazy to have the ship, pay them, and then port
3 because lawyers can't agree, but I can't force you into an
4 agreement. I will -- I will work on this. And I may in fact
5 send out written questions asking for further clarification or
6 even convene another hearing. But thank you for your advocacy
7 today. I've learned from everybody who's spoken, and I
8 appreciate it. Thank you very much.

9 **MR. BARR:** Thank you, Your Honor.

10 **MR. GEORGANTAS:** Thank you, Your Honor.

11 **MR. FLOYD:** Thank you.

12 **MR. RUZINSKY:** Thank you.

13 (Whereupon, the Court adjourned at 4:51 p.m.)

14 * * * *

15 I certify that the foregoing is a correct transcript
16 from the record of proceedings in the above matter.

17 Date: April 21, 2025

18 /S/ Monica Walker-Bailey, MS, RPR, CSR
19 Signature of Court Reporter
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MR. BARR: [10] 4/12 4/24
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MR. FLOYD: [27] 4/8
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MR. GEORGANTAS: [12]
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MR. RUZINSKY: [18]
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Exhibit 47

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELETSON HOLDINGS, INC. and
ELETSON CORP.,

Petitioners/Cross-Respondents,

v.

LEVONA HOLDINGS, LTD.,

Respondent/Cross-Petitioner.

Civ. No. 23-cv-07331 (LJL)

**LEVONA'S MEMORANDUM OF LAW IN OPPOSITION TO APARGO LTD.,
DESIMUSCO TRADING LTD., AND FENTALON LTD.'S
MOTION TO INTERVENE**

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INTRODUCTION

Apargo Limited, Desimusco Trading Limited, and Fentalon Limited (together, the “Purported Nominees”) seek to intervene after years of strategic delay. The Court should not permit them to do so.

The motion should be denied, first, because the Purported Nominees lack statutory standing to intervene. The Federal Arbitration Act (the “FAA”) permits only a “party” to an arbitration award to seek confirmation or vacatur. Because the Purported Nominees were not parties to the underlying arbitration they may not intervene here. The Federal Rules of Civil Procedure cannot grant the Purported Nominees a right that the Federal Arbitration Act does not. Moreover, because the Purported Nominees lack statutory standing, they also cannot claim a legally protectable interest in this proceeding sufficient to support either intervention as of right or permissive intervention.

Even if the Purported Nominees have standing and a sufficient interest, their motion should be denied for the independent reason that it is untimely. In October 2024, Eletson’s former counsel represented to the Court that the Purported Nominees intended to intervene. *See* ECF 204, at 2. “The only apparent reason” for their failure to do so until now was “a gambit that, if they do not [intervene], [this] Court may ... allow the Award to stand, not because of any decision as to whether it should be vacated or not, but based on the judgment that their absence alone deprives the Court of jurisdiction to address the question.” ECF 295, at 21. The Purported Nominees finally filed their motion only after that tactic failed, and on the very last day permitted by the Court. All the while, the Purported Nominees and related parties have marched across the globe in an effort to find a court that will confirm the Award so that they can begin enforcing it.

The untimeliness of the Purported Nominees’ motion is underscored by their conduct after filing it. *First*, the Purported Nominees over the last two weeks have repeatedly refused to

withdraw or even stay the foreign cases despite the ongoing vacatur proceedings here, and in direct violation of orders of the bankruptcy court, which has held them in contempt and imposed coercive monetary sanctions. *Second*, the Purported Nominees made clear in their recent letter to the Court that they intend to seek discovery delays if they are permitted to intervene. *See* ECF 313. *Third*, the Purported Nominees have already engaged in obstruction and delay by failing to timely respond to Levona’s subpoenas; when they finally served a response on April 18, they refused to agree to produce any documents at all, rejecting seven of the eleven requests outright and vaguely offering to meet and confer on the remaining four. *Fourth*, within 48 hours after the intervention motion was filed, the Greek individuals who own two of the Purported Nominees supposedly sold them to strangers to the arbitration (*see* ECF 306, 307); because the Purported Nominees are special purpose vehicles that apparently have never had officers or employees other than their owners, it is reasonable to ask whether the sales were part of an effort to shield the owners from discovery—but the Purported Nominees’ counsel has refused to answer that basic question.

The Court should not reward the Purported Nominees’ gamesmanship. Their motion should be denied. In the alternative, if the motion is not denied, the Court should at minimum impose conditions to ensure that intervention does not prejudice Levona.

BACKGROUND

A. The Purported Nominees’ Failure To Appear As Parties In The Arbitration

The Purported Nominees were at all relevant times controlled by the three Greek families that previously controlled Eletson Holdings and Eletson Corporation (collectively “Eletson”). ECF 67-38 ¶ 103. The Purported Nominees contend that they became owners of the preferred shares of Eletson Gas on March 11, 2022, when Eletson Gas purportedly exercised an option to buy those shares from Levona and purportedly nominated them to acquire the preferred shares.

ECF 67-58 (arbitration award) at 27.¹ The Purported Nominees, however, did not join the arbitration as claimants upon Eletson’s filing of the arbitration demand in July 2022. In fact, the Purported Nominees’ existence was not revealed to Levona until April 2023, shortly after involuntary bankruptcy proceedings had been commenced against Eletson Holdings and roughly nine months after Eletson had filed its arbitration demand. ECF 104, at 20–21; ECF 67-36 ¶ 47. That assertion contradicted multiple representations that Eletson Holdings had made in the preceding months, in which it had characterized itself as the sole shareholder of Gas. *See* ECF 67-20 ¶ 9; ECF 67-21, at 10; ECF 67-22, at 6, ECF 67-23, at 11.

The Purported Nominees also did not seek to join the arbitration proceedings after their existence had been revealed. Instead, the owners of the Purported Nominees participated as witnesses, during which they each “stipulated to be bound by th[e] award and any Judgment entered [t]hereon.” ECF 67-58, at 96 (arbitration award); *see* ECF 31-32 ¶ 13 (Eletson’s post-hearing arbitration brief: “the nominees agree to be bound by any award or judgment entered by this Tribunal in this case or by any court reviewing the award”); ECF 77 (1/2/2024 Hr. Tr.) at 102:21–23 (Mr. Solomon, during the January 2, 2024 hearing in this action: “Justice Belen found that [the Purported Nominees] stipulated to be bound, not only by this award but by any judgment entered hereon.”).

B. The Purported Nominees’ Failure To Intervene In This Action While Pursuing Confirmation Abroad

From the outset of these proceedings, Eletson’s interests have diverged from the interests of the Purported Nominees. For one thing, long before Eletson first sought confirmation, Holdings’ bankruptcy case had been pending for months and threatened a real possibility that

¹ There is no documentation of that supposed nomination by Eletson Gas.

Eletson’s managers and shareholders (and the Purported Nominees’ then-owners) would lose control of the Eletson, as they ultimately did. Moreover, while Eletson had obtained a limited award of about \$12 million in costs and fees, the Purported Nominees obtained a much more substantial award totaling more than \$40 million that rested on distinct liability findings. *See* ECF 67-58, at 99–101.

Despite those diverging interests, the Purported Nominees did not join these proceedings or seek to intervene when Eletson first sought confirmation; or after Levona moved to vacate the award a month later; or after the Official Committee of Unsecured Creditors in Eletson Holdings’ bankruptcy filed a letter in this action stating its position that the award should be confirmed except to extent it is in favor of the Purported Nominees (ECF 69, at 2–3); ; or even after the Petitioning Creditors filed their first proposed chapter 11 plan in May 2024 (*In re Eletson Holdings Inc.*, No. 23-10322 (“Bk.”) ECF 531). Instead, the Purported Nominees waited until October 30, 2024— days after the bankruptcy court had confirmed the petitioning creditors’ chapter 11 plan and after Levona had sought a brief stay of discovery to consider the impact of the confirmation order on these proceedings—to “authorize” Reed Smith to say that “Gas and the [Purported] Nominees intend to seek intervention.” ECF 204, at 2. On October 31, 2024, this Court stayed all proceedings pending a status conference to be held on November 12, 2024. ECF 205. At that status conference (a week before the confirmed plan became effective), Reed Smith as counsel to Eletson requested that the Court lift the stay to permit “whoever else feels they have an interest in this case to apply [for intervention] ..., to see whether there are other parties that your Honor will feel should properly be parties to this matter.” ECF 208 (11/12/24 Hg. Tr.) at 15:6-9. On November 14, the Court lifted the stay in part “to permit (but not require) motions by interested parties, including

Eletson Gas and the Preferred Nominees, to intervene in this action.” ECF 207. Neither moved to intervene.

After the Court again stayed all proceedings, on November 25, Reed Smith (who, by that time, had been terminated as counsel to Eletson) sought clarification as to whether intervention motions were still permitted. *See* ECF 218, 220, 221 (clarifying that stay includes motions for intervention). Then, on December 23, the Court lifted that stay except as to discovery, once again permitting the Purported Nominees to seek to intervene. ECF 238 (12/23/2024 Hg. Tr.) at 31:24-32:1; ECF 234. But the Purported Nominees again did not do so.

Over the next several months, the Purported Nominees did not participate in these proceedings at all. Instead, Reed Smith, ostensibly on behalf of “Provisional Holdings,” claimed the right to speak for Eletson in both this Court and the bankruptcy court on the purported basis that the confirmed plan was functionally a nullity absent recognition in Greece and Liberia. ECF 237, at 2; ECF 252, at 1, 3, 7. “Provisional Holdings,” meanwhile, appeared in those foreign jurisdictions to *oppose* recognition. *See* Bk. ECF 1459, 1496. As it became clear that the Court would not recognize Provisional Holdings’ authority, Provisional Holdings began to assert that this action must be dismissed for lack of Article III jurisdiction. *See* ECF 252.

While this was unfolding, the Purported Nominees, on their own behalf or through Eletson Gas (over which they are purporting to exercise authority in violation of the bankruptcy court’s stay relief order, Bk. ECF 48), have attempted to pursue confirmation and enforcement of the arbitration award in at least Greece and England, in the latter jurisdiction represented by Reed Smith. ECF 232, 248. In the Greek proceeding, which all three Purported Nominees filed as Plaintiffs, they seek to confirm the entire award, including those parts that this Court has vacated, without so much as acknowledging the existence of this action. *See* ECF 276-1. After a series of

motions, on March 13, 2025, the bankruptcy court held Eletson’s former controllers and others, Apargo’s principal and Desimusco and Fentalon’s then-principals, in contempt and required them to affirmatively withdraw the foreign confirmation proceeding, imposing per diem monetary sanctions of \$5,000, jointly and severally, until they did so. Bk. ECF 1537.

C. The Purported Nominees’ Belated Motion To Intervene In This Action

The Purported Nominees did not resurface in this proceeding until after the Court had formally displaced “Provisional Holdings,” rejected “Provisional Holdings” jurisdictional argument, and ordered the parties to confer regarding whether the stay of discovery should be lifted. In a March 11 letter, Apargo, represented by a former partner of Provisional Holdings’ lead attorney, encouraged the Court to continue the stay of discovery until the Second Circuit had reviewed this Court’s order explaining that it was “hesitant to undertake the cost and burden of U.S. litigation ... [and] sees no reason for it to assume the burden of creating through participation a justiciable U.S. controversy.” ECF 285, at 2. The Court refused to consider that letter because “a person who is not a party to the proceeding has no right to be heard” and noted that Apargo may “move, on motion, to intervene or file an amicus brief.” ECF 288.

Apargo chose to seek leave to file an amicus brief. ECF 289. In its proposed amicus brief, Apargo reiterated that it had not moved to intervene because “[i]f Article III jurisdiction does not exist, Apargo sees no reason to create a justiciable ‘case or controversy’ by inserting itself into the proceedings.” ECF 289-2, at 8. Apargo argued in the alternative that, if this Court were inclined to permit discovery while the Second Circuit appeal remained pending, it should be permitted two weeks to intervene, and that all discovery should remain stayed until its motion to intervene was decided. *Id.* On March 25, the Court lifted the discovery stay, denied Apargo’s motion for leave to file an amicus brief, and granted Apargo’s request for a two-week period in which to move to

intervene, directing that any such motion be filed by April 7. ECF 297. At that point, only Apargo had appeared—the other two Purported Nominees remained entirely uninvolved.

Counsel for the Purported Nominees sought Levona and Eletson’s consent to only Apargo’s intervention. In evaluating that request, Levona’s counsel sought responses to basic questions such as why the other two Purported Nominees were not seeking to intervene, what documents Apargo had in its possession, and which witnesses Apargo would make available for deposition. *See* ECF 303-2, at 6–7. On April 2, five days before intervention motions were due, Apargo’s counsel refused to provide any meaningful response to several of Levona’s questions (other than to note that Apargo was “an unlikely source of much, if any, additional documentation relevant to the issues for discovery”), and stated that he was “not now in a position to comment on non-Apargo nominees.” *Id.* at 6. This underscored Levona’s concern about why it was only Apargo, and not the other Purported Nominees that was seeking to intervene, including whether it was an effort to shield them from discovery.

Accordingly, on April 4, Levona’s counsel, on behalf of both Levona and Eletson, provided a proposed stipulation to permit intervention by any of the Purported Nominees on or before April 11, provided that all three Purported Nominees: 1) reaffirmed their stipulation to be bound by the judgment of this Court, 2) agreed to participate fully in discovery, 3) withdrew all pending foreign confirmation or enforcement proceedings relating to the award pending a final resolution of this action, and 4) did not consult Reed Smith in connection with these proceedings (a request made by Eletson, which was concerned about Reed Smith using Eletson’s own documents and information against it). *See id.* at 9–10. These conditions were intended to ensure the fairness of these proceedings by preventing non-participating Purported Nominees from later arguing that they were not bound by any adverse judgment; permitting the parties to develop a complete record;

allowing for orderly adjudication; and ensuring that the Purported Nominees did not obtain information in violation of the attorney-client privilege and Reed Smith’s ethical duties. Those reasonable conditions were rejected. *Id.* at 2.

Three days later, Apargo and the other Purported Nominees (Desimusco Trading Limited and Fentalon Limited) jointly moved to intervene. No explanation was given about why Desimusco and Fentalon had finally agreed to participate. Concurrent with the filing of their motion, Desimusco and Fentalon filed Rule 7.1 statements disclosing no corporate parent. *See* ECF 304, 305. A mere two days later, however, Desimusco and Fentalon without explanation filed updated disclosure statements identifying “Blige Corporation” and “Ascella Limited” as their respective corporate parents. *See* ECF 306, 307. Concerned that Desimusco and Fentalon’s prior owners had restructured their ownership in an effort to resist discovery, Levona asked their counsel for information regarding those transactions and assurances that Desimusco and Fentalon would participate in discovery and make their former owners available for deposition. *See* Exhibit 1 to Declaration of Isaac Nesser (“Ex.”). Counsel refused to answer those questions. *See* Ex. 2. Although the Purported Nominees have declined to indicate whether and to what extent they intend to provide discovery if permitted to intervene, they have made clear their intent to delay discovery if their motion is granted. On April 15, the Purported Nominees filed a letter noting their “strong objections” to the existing discovery schedule (a schedule that continued the existing schedule to which all parties had agreed prior to the stay of discovery) and indicating that they intend to seek to prolong discovery. ECF 313.

Nor have the Purported Nominees participated meaningfully in third-party discovery to date. On October 8, 2024, Levona served subpoenas on each of the Purported Nominees through regular postal channels as permitted under the Hague Convention. Despite the return date of

October 22, 2024, the Purported Nominees never responded to the subpoenas. Following their emergence as represented parties in this proceeding, and once the discovery stay was lifted, counsel for Levona asked the Purported Nominees’ counsel if and when the Purported Nominees intended to respond to the subpoenas. After weeks of obfuscation, the Purported Nominees served initial responses and objections on April 18, 2025 (long after their deadline to respond had expired), in which they refused to produce any documents in response to any of the eleven requests and offered to meet and confer with respect to only four of them. *See* Ex. 3.

ARGUMENT

Federal Rule of Civil Procedure 24 governs intervention. Under it, all would-be intervenors must satisfy the “threshold” requirement that they have “standing to intervene.” *Eddystone Rail Co., LLC v. Jamex Transfer Servs., LLC*, 289 F. Supp. 3d 582, 588 (S.D.N.Y. 2018). Rule 24(a) provides for intervention as of right. To intervene as of right, a would-be intervenor must: “(1) file a timely motion; (2) show an interest in the litigation; (3) show that its interest may be impaired by the disposition of the action; and (4) show that its interest is not adequately protected by the parties to the action.” *D’Amato v. Deutsche Bank*, 236 F.3d 78, 84 (2d Cir. 2001) (quotation omitted). “Failure to meet any one of these requirements suffices for a denial of the motion” to intervene. *In re Holocaust Victim Assets Litig.*, 225 F.3d 191, 197–98 (2d Cir. 2000) (citation omitted).

Rule 24(b) provides for permissive intervention. It “provides that, on timely motion, intervention may be permitted to anyone who ‘has a claim or defense that shares with the main action a common question of law or fact.’” *Eddystone*, 289 F. Supp. 3d at 595. After those requirements are established, a court may “in its discretion, consider a host of factors in determining whether to permit intervention.” *Id.* The “principal consideration ... is whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.”

U.S. Postal Serv. v. Brennan, 579 F.2d 188, 191 (2d Cir. 1978) (quotations omitted). “Permissive intervention is wholly discretionary with the trial court.” *Id.*

The Purported Nominees have not met and cannot meet the foregoing requirements.

I. THE PURPORTED NOMINEES LACK STANDING TO INTERVENE

In their motion to intervene, the Purported Nominees ask to do two things: “join ... Petitioner’s previously requested order to confirm” and “oppose any effort to vacate” the Award. ECF 302, at 5.² The Purported Nominees, however, cannot get past the “threshold” problem that they lack “standing to intervene” to either seek confirmation or oppose vacatur. *Eddystone*, 289 F. Supp. 3d at 588.

A. The Purported Nominees Lack Standing To Intervene To Seek Confirmation

The Purported Nominees lack standing to intervene to seek confirmation because the FAA and New York Convention permit only a *party to the arbitration* to seek confirmation, and the Rules Enabling Act prohibits reading Rule 24 to permit intervention more broadly than the FAA allows. When it comes to confirmation proceedings, “[a]ny analysis regarding ... standing to intervene ... begins with the text of the [FAA].” *Eddystone*, 289 F. Supp. 3d at 588. The FAA provides that only a “party to [an] arbitration” has the right to apply to a court for confirmation of an arbitral award. 9 U.S.C. §§ 9, 207; *see* United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, art. III (“Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon.”).

² The Purported Nominees filed a proposed pleading solely as to confirmation, ECF 303-1, but did not file a proposed answer to Levona’s vacatur petition, as Eletson had done, *see e.g.*, ECF 170.

In turn, the Rules Enabling Act provides that the Federal Rules of Civil Procedure “shall not abridge, enlarge or modify any substantive right.” 28 U.S.C. § 2072(b). “Heeding this command,” the Second Circuit has “repeatedly held” that the Federal Rules “may not ... be employed to expand substantive rights.” *Bugliotti v. Republic of Argentina*, 67 F.4th 102, 107 (2d Cir. 2023) (quotations omitted); *see id.* (“[T]he procedural mechanisms set forth in Rule 17(a) for ameliorating real[-]party[-]in[-]interest problems may not ... be employed to expand substantive rights.” (quotation omitted)). For example, in *Fed. Treasury Enter. Sojuzplodoimport v. SPI Spirits, Ltd.*, the Second Circuit refused to “extend standing to [a party without it] through ‘ratification’ under Rule 17(a)” because “[s]uch a decision would amount to an improper expansion of the substantive rights provided by the” relevant substantive law. 726 F.3d 62, 83–84 (2d Cir. 2013).

Accordingly, the Federal Rules, including Rule 24, cannot permit anyone but a “party to [an] arbitration” to pursue confirmation of an award under the FAA. “To hold otherwise ‘would amount to an improper expansion of the substantive rights provided by the [FAA].’” *Bugliotti*, 67 F.4th at 107. Courts enforce such limitations on the Federal Rules by requiring would-be intervenors to establish both Article III and statutory standing before permitting intervention. *See, e.g., Mayor & City Council of Baltimore v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 738 F. Supp. 3d 1, 5 (D.D.C. 2024) (noting that in a prior order, “[t]he Court denied NSSF’s motion to intervene as of right or permissively, concluding that the Foundation had failed to carry its burden of showing that it has Article III or statutory standing”); *cf. Eddystone*, 289 F. Supp. 3d at 588 (“Under the plain terms of the FAA, the Proposed Intervenors are foreclosed from challenging the Arbitration Award” because they are not a “party to the arbitration”) (quoting 9 U.S.C. § 10(a)).

The Purported Nominees therefore cannot intervene under Rule 24 to pursue confirmation. They were not parties to the arbitration below. ECF 104, at 71–72. They thus indisputably could not have brought their own petition to confirm the award under the FAA. And consistent with the Rules Enabling Act, Rule 24 cannot give them a right that the FAA denies them.

None of the cases the Purported Nominees cite is to the contrary. To start, none permits a non-party to an arbitration to seek to confirm an award. For instance, the intervenor in *Manor House Capital, LLC v. Pritsker*, 2015 WL 273684, *2 (S.D.N.Y. Jan. 15, 2015) (cited Mem. 10), was a party to the arbitration and thus had the ability under the FAA to intervene to seek confirmation. Instead, the Purported Nominees’ cited cases perhaps recognize that in very limited circumstances when an “arbitrator goes outside its jurisdiction and issues a ruling purporting to bind that party,” then nonparties to an arbitration may potentially seek to intervene to *vacate* an arbitration award despite the general rule that they cannot do so because the FAA says “that a party objecting to an arbitration award should be a party to the arbitration.” *Bruscianelli v. Triemstra*, 2000 WL 1100439, *4 (N.D. Ill. Aug. 4, 2000) (citing *Ass’n of Contracting Plumbers v. Local Union No. 2*, 841 F.2d 461, 466-67 (2nd Cir. 1988)) (cited Mem. 10); *accord 1199 SEIU United Healthcare Workers E. v. Alaris Health at Hamilton Park*, 2018 WL 9651077, *3 (S.D.N.Y. Sept. 4, 2018) (similarly permitting party to intervene to vacate award) (cited Mem. 15–16).

That potential exception does not help the Purported Nominees. As Judge Pauley recently explained at length, “courts have closely adhered to that limited exception” and cabined it to the precise circumstances in *Contracting Plumbers*, 841 F.2d at 466-67—*i.e.*, significantly-affected non-parties seeking to vacate arbitral awards—the only case in which the Second Circuit identified and applied the exception. *Eddystone*, 289 F. Supp. 3d at 589. The Purported Nominees’ request does not fit within those circumstances. Rather, they are seeking to do the opposite of what the

limited exception may permit—they seek to *confirm* an arbitration award to which they are not a party and that gives them a windfall, not vacate an award that purportedly binds them. The FAA does not afford them that ability, so neither can Rule 24, and there is no authority holding otherwise.

There is also reason to question the potential exception’s continued validity. *Contracting Plumbers* did not address the limitations that the Rules Enabling Act imposes on nonparties trying to use Rule 24 to intervene to seek vacatur of an Award even though they lack statutory standing to do so under the FAA. And many cases since *Contracting Plumbers*, such as *Bugliotti* and *Federal Treasury Enterprise* cited above, have implicitly contradicted its conclusion by following the limitations of the Rules Enabling Act.

Finally, in any event, the Purported Nominees' request to join Eletson's confirmation petition is moot because the parties have stipulated to dismiss that petition. *See* ECF 302, at 5 (seeking to "join" confirmation petition); ECF 302, at 6 (seeking to “be heard with respect to” confirmation petition); ECF 317 (dismissing confirmation petition without prejudice).

B. The Purported Nominees Lack Standing To Intervene To Oppose Vacatur

For two reasons, the Purported Nominees also lack standing to intervene to oppose Levona’s petition to vacate the award.

First, the Purported Nominees lack standing to oppose vacatur for much the same reason they cannot intervene to seek confirmation. The FAA contemplates that only a “party to [an] arbitration” will be involved in either confirmation or vacatur proceedings. 9 U.S.C. §§ 9, 10, 207. Indeed, Section 12 of the FAA makes clear that the party opposing vacatur must have been a party to the arbitration. It states that “[n]otice of a motion to vacate ... must be served upon the *adverse party*” and, upon such service, a court may “stay[] the proceedings of the adverse party to enforce the award” during the pendency of a vacatur motion. 9 U.S.C. § 12 (emphasis added). As

explained above, enforcing an award is something that only a party to the arbitration can do. See supra, Part I.A. Likewise, Section 12 specifies service requirements based on whether the adverse party is a “resident of the district within which the award was made.” 9 U.S.C. § 12 (emphasis added). By making the service requirements turn on the adverse party’s connection to where “the award was made,” Section 12 presupposes that the adverse party was a party to the arbitration that led to the award.

Once more, the Purported Nominees were not parties to the arbitration. Thus, under the Rules Enabling Act, Rule 24 cannot improperly expand their “substantive rights provided by the [FAA]” and permit them to intervene to oppose vacatur. *Bugliotti*, 67 F.4th at 107. And as explained above, the Purported Nominees point to no case in which a nonparty was allowed to intervene to oppose vacatur of an arbitration award—because such intervention is not allowed.

Second, the Purported Nominees should not be permitted to intervene to oppose vacatur for the same reason that nonparties in an appeal from a district court decision do “not have standing to protest the vacatur of a decision to which [they were] not a party.” *U.S. Philips Corp. v. Sears Roebuck & Co.*, 55 F.3d 592, 594 (Fed. Cir. 1995); *see U.S. Philips Corp. v. Windmere Corp.*, 971 F.2d 728, 730 (Fed. Cir. 1992) (rejecting litigant’s argument “that even if it were not a party to the proceedings that are the subject of this appeal and settlement, its substantial involvement in the proceedings and its substantial interest in the subject matter provide standing to oppose vacatur.”); *see Kahn v. Chase Manhattan Bank*, 131 F.3d 131 (2d Cir. 1997) (unpublished table decision) (noting that in *Sears Roebuck* a “non-party lacked standing to oppose a joint motion to dismiss the appeal” and the nonparty’s “‘asserted interest’ [wa]s belied by fact that he ‘refrained from intervention at the trial’” (quoting *Sears Roebuck*, 55 F.3d at 594)). Rather, the participants in appellate-like proceedings are generally fixed at the first-level decision (whether in court or

arbitration) to provide certainty and predictability while preserving party and judicial resources. New parties cannot appear out of the blue to defend a decision they did not procure. The Purported Nominees, who were not parties to the arbitration, cannot seek to join now after the first-level decision has been reached.

II. THE PURPORTED NOMINEES DO NOT HAVE A LEGALLY PROTECTABLE INTEREST IN CONFIRMING OR VACATING THE AWARD

The Purported Nominees’ motion should be denied for the additional reason that they have not claimed a legally protectable interest in this proceeding, as is required to intervene as of right under Rule 24(a) and as would support permissive intervention under Rule 24(b).

First, the Purported Nominees’ motion to intervene as of right should be denied because they have not claimed a cognizable “interest relating to the property ... that is the subject of [this] action.” Fed. R. Civ. P. 24(a)(2). To support intervention as of right, a proposed intervenor’s interest must be “direct, substantial, and legally protectable,” Mem. 12, *i.e.*, the intervenor “must be authorized to enforce that interest, and the interest must be capable of being enforced through the law,” *Floyd v. City of New York*, 302 F.R.D. 69, 116 (S.D.N.Y. 2014) (citation omitted); *see New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 464–65 (5th Cir. 1984) (holding Rule 24(a) requires “that the interest be one which the *substantive* law recognizes as belonging to or being owned by the applicant,” and denying intervention where proposed intervenor did not fall within “zone of interests” statute at issue sought to protect). Accordingly, intervention must be denied when, for example, a proposed intervenor’s claim is time-barred, even if disposition of the main action would affect the proposed intervenor’s interests more broadly. *See Ceribelli v. Elghanayan*, 1994 WL 529853, at *1–2 (S.D.N.Y. Sept. 28, 1994).

Here, the Purported Nominees have claimed a right “to be heard *with respect to the Petition to Confirm the Arbitral Award* and the Cross-Petition to Vacate the Arbitral Award.” Mem. 2

(emphasis added); *see id.* at 1 (moving “to intervene and join in seeking Petitioner’s previously requested order to confirm the underlying arbitral award”). But they lack statutory standing to participate in this action either in support of confirmation or in opposition to vacatur. *See supra* Part I. Their lack of statutory standing directly demonstrates that they do not possess a “legally protectable” interest as required by Rule 24(a)(2), because “the law does not afford [them] an avenue to vindicate th[eir] interest.” *Floyd*, 302 F.R.D. at 116–17.

Second, the Purported Nominees’ motion for permissive intervention should be denied for similar reasons. Because the Purported Nominees lack standing to seek confirmation or oppose vacatur of the Award, they have no “claim or defense” that could relate to Eletson’s claims or defenses. *Eddystone*, 289 F. Supp. 3d at 595. Thus, the “the nature and extent of the[ir] interests”—*i.e.*, *no cognizable interest at all*—do not favor permissive intervention. *Brennan*, 579 F.2d at 191. The Purported Nominees’ motion to intervene should be denied on that basis too.

III. THE PURPORTED NOMINEES’ MOTION IS UNTIMELY

Even if the Purported Nominees had standing to intervene and a cognizable interest to support intervention, their motion should be denied as untimely.

Both permissive intervention and intervention as of right must be sought by “timely motion.” Fed. R. Civ. P. 24(a); *see, e.g., NAACP v. New York*, 413 U.S. 345, 365 (1973) (“Whether intervention be claimed as of right or as permissive [t]he court where the action is pending must first be satisfied as to timeliness.”). “Timeliness is not defined by [Rule 24] and is therefore left largely to the court’s discretion, which must be guided by consideration of all of the circumstances surrounding the requested intervention.” *Eddystone*, 289 F. Supp. 3d at 591 (citation omitted). In making this assessment, courts consider: “(a) the length of time the applicant knew or should have known of [its] interest before making the motion; (b) prejudice to existing parties resulting from the applicant’s delay; (c) prejudice to [the] applicant if the motion is denied;

and (d) the presence of unusual circumstances militating for or against a finding of timeliness.” *MasterCard Int’l Inc. v. Visa Int’l Servs Ass’n Inc.*, 471 F.3d 377, 390 (2d Cir. 2006). Here, the Purported Nominees slept on their rights for months, if not years, and their intervention in this case would be prejudicial given the abbreviated schedule on which the Purported Nominees have forced the parties to operate by pressing forward with their foreign confirmation proceedings even while they seek delay here.

A. The Purported Nominees Strategically Delayed In Order To Manipulate These Proceedings

The Purported Nominees’ eleventh-hour intervention motion—which comes years after they knew of their supposed interest in the underlying award and many months after their supposed proxies lost control of the Eletson petitioners—is untimely. *See, e.g., NAACP*, 413 U.S. at 367 (affirming denial of motion to intervene as untimely where “the suit was over three months old and had reached a critical stage”); *United States v. Pitney Bowes, Inc.*, 25 F.3d 66, 71 (2d Cir. 1994) (affirming denial of intervention where proposed intervenor “had constructive knowledge of its interest in the underlying action for at least 15 months, and actual knowledge for eight months before filing its motion to intervene”). Their delay, moreover, was intentional. They have brought this motion only after the Court rejected their supposed proxies’ efforts to stall this action, and while they press forward with confirmation elsewhere. The present motion to intervene is just a continuation of that scheme. The motion should be denied for this reason too.

To begin with, if the Purported Nominees had actually been designated to receive the preferred shares (as they contend), they would have known of their interest in the arbitration award when the arbitration was initiated in 2022. *See, e.g., MasterCard*, 471 F.3d at 390 (analyzing timeliness with respect to when party was first aware of interest in litigation, without considering whether that interest was adequately represented). Rather than participate in the arbitration,

however, they sat on the sidelines and stipulated to be bound by its outcome and by the outcome of these proceedings. *See* ECF 67-58, at 96 (arbitrator finding that the Purported Nominees “have stipulated to be bound by this award and any judgment entered hereon”); *supra*, at 3.

Nor did the Purported Nominees participate in these proceedings from the outset. In an effort to get around that delay, the Purported Nominees argue (Mem. 12) that “[b]efore the Court found that the decision-making authority and legal representation for Petitioners had been displaced, the Preferred Shareholders understood that their interests in the confirmation of the Final Award were being protected.” But “Rule 24 does not require ... that an applicant wait until there is ‘no doubt’ that his or her interests will be impacted. Instead, Rule 24 encourages applicants to move when it becomes apparent that their interest *might* not be protected.” *Floyd*, 302 F.R.D. at 87 (collecting cases). The fact that the Purported Nominees’ interests might not be protected would have been apparent to them from the outset of this case: the Purported Nominees and Eletson had received very different relief in the arbitration and, even if the Purported Nominees expected Eletson to represent their interests, they were aware of the very real possibility that control of Eletson, and therefore its incentives and interests in this proceeding, might change as a result of the ongoing bankruptcy case.

Moreover, even if it were correct that the Purported Nominees’ basis for intervention did not ripen until Eletson’s former directors and shareholders lost control of Eletson, the Purported Nominees failed to intervene for at least an additional five months. *See MasterCard Int’l v. Federation Internationale de Football Ass’n*, 2006 WL 3065598, *1–2 (S.D.N.Y. Sept. 26, 2006) (denying intervention where party had been aware of interest for five months and claimed to have been aware that interest was not adequately represented for one month before moving to intervene); *see also CWC Capital Cobalt Vr Ltd. v. U.S. Bank Nat’l Ass’n*, 790 F. App’x 260, 262 (2d Cir. 2019)

(affirming denial of motion to intervene filed in March 2018 where party had received notice of litigation in “the summer of 2017”). That delay was calculated and has been timed to inflict the greatest prejudice on Levona possible under the circumstances.

The Purported Nominees authorized Reed Smith to represent to the Court that they intended to intervene in these proceedings as early as October 30, 2024. *See* ECF 204, at 2. They have been free to file an intervention motion at any time since (other than during a limited stay period from November 25 to December 23 *see* ECF 207, 234). Rather than do so, the families that control Apargo and until recently controlled the Purported Nominees attempted repeatedly to interfere in both this action and the bankruptcy court—in the latter case, to the point of being in active and ongoing contempt of court—by claiming to act on behalf of so-called “Provisional Holdings.” The goal of that scheme was clear: delay these proceedings for as long as possible by disputing who controls Eletson, challenge the Court’s jurisdiction, and then, when those efforts failed, attempt to prolong these proceedings by way of intervention—all while pushing forward their confirmation/enforcement efforts abroad. *See, e.g.*, ECF 295, at 21 (the Court observing that Purported Nominees appeared to have declined to intervene so “the Court may do their work for them and allow the Award to stand, not because of any decision as to whether it should be vacated or not but based upon the judgment that their absence alone deprives the Court of jurisdiction to address that question”); *see also* ECF 289-2 at 4–5 (Apargo arguing that “any discovery should be calibrated to allow first for a resolution of Rule 24 intervention motions” and that “[f]or reasons of efficiency and fairness, intervenors should be allowed to participate in defining the scope of fact and potentially expert discovery”).

Indeed, while seeking to delay these proceedings, the Purported Nominees—on their own behalf and through Eletson Gas over which they and their former owners are wrongfully purporting

to exercise control in violation of the bankruptcy court’s Stipulated Stay Relief Order (Bk. ECF 48)—have pressed forward with enforcement of the award in at least Greece and England, efforts that have resulted in (as of this writing) nearly \$2 million in contempt sanctions. A hearing on the Purported Nominees’ Greek confirmation and enforcement petition, which seeks to confirm the entire award—including those portions the Court has vacated—is currently scheduled for June 3, 2025 (subject to service being effectuated by May 3, 2025). In the context of the Purported Nominees’ request to the parties for consent to intervene, Levona has repeatedly, and as recently as last week, asked the Purported Nominees to forego pursuing confirmation and enforcement in abroad until this Court resolves Levona’s vacatur motion. The Purported Nominees have consistently refused those requests.

The Purported Nominees’ motion to intervene is a tactical maneuver designed to further delay this action after their other delay strategies failed. They slept on their supposed rights for years and should not be permitted to jump into this action at this late stage.

B. Permitting Intervention Now Would Prejudice Levona

Unless conditions on the Purported Nominees’ intervention are imposed to ensure that these proceedings will not be delayed, *see infra* Part IV, permitting the Purported Nominees to intervene now would prejudice Levona, which has already waited for several months to have its vacatur petition resolved in a context where the Purported Nominees and their affiliates are proceeding with confirmation/enforcement efforts abroad. Indeed, the delay to date in resolving Levona’s vacatur petition was caused by the Purported Nominees and the Greek families who previously controlled Eletson, which have spent nearly half-a-year insisting that they control Eletson notwithstanding the plan of reorganization confirmed by the bankruptcy court and despite several contempt and sanctions orders that the bankruptcy court issued in an effort to enforce it.

Particularly with a June 3 hearing date in Greece looming, permitting intervention now would unduly prejudice Levona.

Under the operative discovery schedule—which itself was motivated in significant part by the foreign proceedings that the Purported Nominees have refused to withdraw—party document production is closing today, and discovery is closing in roughly six weeks. *See* ECF 311. Based on the representations in their motion, however, the Purported Nominees intend to seek extensive discovery if permitted to intervene. *See, e.g.*, ECF 302, at 2 (Purported Nominees “come before this court asking for the opportunity to develop a factual record”); *id.* at 11 (arguing that Levona and Eletson should “involve the Preferred Shareholders in developing a discovery plan, taking into account their views on the scope of discovery”). Moreover, the Purported Nominees have advised the Court that they have “strong objections to the [current discovery] schedule,” ECF 313. At the same time, the change in ownership of two Purported Nominees, coupled with their failure to provide Levona with any details regarding that transaction, and their failure to comply with validly-served third-party discovery (*see supra*, at 8–9)—suggests that they do not intend to meaningfully participate in discovery. “[W]here a grant of a motion to intervene would require further discovery, a court may properly deny the motion.” *John Wiley & Sons v. Book Dog Books LLC*, 315 F.R.D. 169, 173 (S.D.N.Y. 2016). The Court should do so here.

IV. IF THE COURT PERMITS INTERVENTION, IT SHOULD IMPOSE SEVERAL CONDITIONS ON THE PURPORTED NOMINEES

Under Rule 24, the Court may impose conditions on any party it allows to intervene. *Chevron Corp. v. Donziger*, 2011 WL 2150450, *5 (S.D.N.Y. May 31, 2011) (citing *Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370, 378 (1987)) (courts have discretion “to limit the scope of any intervention”). That authority of course exists in cases of permissive intervention. 7C Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1922 (3d ed.) (“Since

the trial court has full discretion to grant or deny an application for permissive intervention under Rule 24(b), it may if it chooses impose conditions on its grant of the application.”). But the Advisory Committee notes state that so too “[a]n intervention of right ... may be subject to appropriate conditions or restrictions responsive among other things to the requirements of efficient conduct of the proceedings.” Fed. R. Civ. P. 24 (advisory committee notes); *see Ionian Shipping Co. v. Brit. L. Ins. Co.*, 426 F.2d 186, 191–92 (2d Cir. 1970) (“[T]he Advisory Committee specifically suggested that the intervenor might be subjected to conditions necessary to ‘efficient conduct of the proceedings’; we can see no reason why similar conditions applied to a discretionary intervenor would not cure any possible objection to intervention in this action.”).

A long common recognized condition is that an intervenor “abid[e] by pretrial orders already made.” *Fox v. Glickman Corp.*, 355 F.2d 161, 164 (2d Cir. 1965). Specifically, courts may permit intervention on condition that no additional discovery be taken by the intervenor. *See, e.g., City of Syracuse, N.Y. v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 2021 WL 1051625, *9 (S.D.N.Y. Mar. 19, 2021). Beyond that, particularly when an intervenor has engaged in “dilatatory tactics,” courts have imposed even more restrictive conditions, including requiring an intervenor to waive the right to a jury trial. *U.S. for Use & Benefit of Browne & Bryan Lumber Co. v. Mass. Bonding & Ins. Co.*, 303 F.2d 823, 829 (2d Cir. 1962).

Accordingly, and in view of the issues of strategic delay and prejudice addressed above, any order permitting intervention should at minimum require the Purported Nominees to abide by the current scheduling order. And for the same reasons, the Court should also condition intervention on the Purported Nominees withdrawing their pending Greek confirmation/enforcement petition and agreeing not to pursue confirmation or enforcement elsewhere prior to resolution of this action.

CONCLUSION

The Court should deny the Purported Nominees' motion to intervene.

DATED: April 21, 2025

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CERTIFICATE PURSUANT TO LOCAL RULE 7.1(c)

I, Isaac Nesser, certify that the foregoing opposition contains fewer than 8,750 words.
According to the word processing program used to prepare this opposition, it contains 7,249 words.

By /s/ Isaac Nesser
Isaac Nesser

Exhibit 48

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELETSON HOLDINGS, INC., and ELETSON
CORP.,

Petitioners/Cross-Respondents,

v.

LEVONA HOLDINGS LTD.,

Respondent/Cross-Petitioner.

Civil Action No. 23-CV-7331 (LJL)

**AMENDED CORPORATE DISCLOSURE STATEMENT
PURSUANT TO FED. R. CIV. P. 7.1**

Pursuant to Federal Rule of Civil Procedure 7.1(a), Desimusco Trading Limited (“Desimusco”), by and through its counsel, hereby amends its Rule 7.1 disclosure and states that Desimusco’s parent company is Blige Corporation. Desimusco also states that no publicly held company owns 10% or more of Desimusco.

Dated: April 9, 2025

Respectfully submitted,

GREENBERG TRAURIG, LLP

/s/ Hal S. Shaftel

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CERTIFICATE OF SERVICE

I, Hal Shaftel, attorney for Desimusco Trading Limited, hereby certify that I served a true and correct copy of Desimusco Trading Limited's Fed. R. Civ. P. 7.1, upon counsel of record via the Court's electronic filing system on April 9, 2025.

/s/ Hal S. Shaftel

Hal S. Shaftel

Exhibit 49

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELETSON HOLDINGS, INC., and ELETSON
CORP.,

Petitioners/Cross-Respondents,

v.

LEVONA HOLDINGS LTD.,

Respondent/Cross-Petitioner.

Civil Action No. 23-CV-7331 (LJL)

**AMENDED CORPORATE DISCLOSURE STATEMENT
PURSUANT TO FED. R. CIV. P. 7.1**

Pursuant to Federal Rule of Civil Procedure 7.1(a), Fentalon Limited (“Fentalon”) by and through its counsel, hereby amends its Rule 7.1 disclosure and states that Fentalon’s parent company is Ascella Limited. Fentalon also states that no publicly held company owns 10% or more of Fentalon.

Dated: April 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Hal Shaftel, attorney for Fentanyl Limited, hereby certify that I served a true and correct copy of Fentanyl Limited's Fed. R. Civ. P. 7.1, upon counsel of record via the Court's electronic filing system on April 9, 2025.

/s/ Hal S. Shaftel
Hal S. Shaftel

Exhibit 50

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELETSON HOLDINGS, INC., and ELETSON
CORP.,

Petitioners/Cross-Respondents,

v.

LEVONA HOLDINGS LTD.,

Respondent/Cross-Petitioner.

Civil Action No. 23-CV-7331 (LJL)

CORPORATE DISCLOSURE STATEMENT PURSUANT TO FED. R. CIV. P. 7.1

Pursuant to Federal Rule of Civil Procedure 7.1(a), Desimusco Trading Limited, by and through its counsel, hereby states that Desimusco Trading Limited has no parent company, and no publicly held company owns 10% or more of Desimusco Trading Limited.

Dated: April 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Hal Shaftel, attorney for Desimusco Trading Limited, hereby certify that I served a true and correct copy of Desimusco Trading Limited's Fed. R. Civ. P. 7.1, upon counsel of record via the Court's electronic filing system on April 7, 2025.

/s/ Hal S. Shaftel
Hal S. Shaftel

Exhibit 51

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELETSON HOLDINGS, INC., and ELETSON
CORP.,

Petitioners/Cross-Respondents,

v.

LEVONA HOLDINGS LTD.,

Respondent/Cross-Petitioner.

Civil Action No. 23-CV-7331 (LJL)

CORPORATE DISCLOSURE STATEMENT PURSUANT TO FED. R. CIV. P. 7.1

Pursuant to Federal Rule of Civil Procedure 7.1(a), Fentalon Limited by and through its counsel, hereby states that Fentalon Limited has no parent company, and no publicly held company owns 10% or more of Fentalon Limited.

Dated: April 7, 2025

Respectfully submitted,

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I, Hal Shaftel, attorney for Fentalon Limited, hereby certify that I served a true and correct copy of Fentalon Limited's Fed. R. Civ. P. 7.1, upon counsel of record via the Court's electronic filing system on April 7, 2025.

/s/ Hal S. Shaftel
Hal S. Shaftel

Exhibit 52

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Kithnos Special Maritime § CASE NO. 2:25-cv-00042
Enterprise, et al. § HOUSTON, TX
§
VERSUS § MONDAY,
§ APRIL 24, 2025
M/V Kithnos, et al. § 2:07 PM to 3:18 PM

BEFORE THE HONORABLE DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PARTIES: SEE NEXT PAGE
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CASE MANAGER: KENDRA PEARSON

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1 HOUSTON, TEXAS; MONDAY, APRIL 24, 2025; 2:07 PM

2 THE CASE MANAGER: The Court calls civil action
3 number 2:25-CV-00042, Kithnos Special Maritime Enterprise, et
4 al. v. M/V Kithnos, et al.

5 May I have appearances from counsel, please?

6 MR. FLOYD: Yes. Good afternoon, Your Honor. This
7 is Edward Floyd, from the Floyd Zadkovich firm, on for the
8 Plaintiffs. And also on the line with me I have colleagues of
9 mine, Luke Zadkovich and Augusto Garcia, as well as another
10 associate, Abby Wagg in my office with me, and Eva-Maria Mayer
11 listening in.

12 THE COURT: Okay.

13 MR. JORDAN: Good afternoon, Your Honor. Kendrick
14 Jordan, on behalf of the Plaintiffs, as local counsel.

15 THE COURT: Okay. Mr. Jordan are you going to be
16 speaking today, or just local counsel?

17 MR. JORDAN: Just local counsel, Your Honor.

18 THE COURT: Just to help me stay organized and
19 focused, no offense to you, but would you mind turning your
20 camera off? If you need to say anything, for anybody who's not
21 visibly on the screen, you may turn your camera on if you have
22 a need to participate verbally. But for now, Mr. Jordan,
23 camera off. Let me stay focused on the -- This case is
24 complicated enough.

25 Continue with your --

1 MR. JORDAN: Understood, Your Honor.

2 THE COURT: Very good. Continue with your
3 appearances.

4 MR. GEORGANTAS: Dimitri Georgantas. Can you hear
5 me, Your Honor?

6 THE COURT: (indiscernible)

7 MR. GEORGANTAS: Dimitri Georgantas, Eugene Barr,
8 Bruce Ruzinsky, and Victoria Argeroplos, on behalf of the
9 Claimant. Good afternoon, Your Honor.

10 THE COURT: Okay. Thank you. Good afternoon.

11 MS. HAAS: And Your Honor, Kelly Haas, on behalf of
12 National Maritime Services. I will turn my camera off, though,
13 because I don't anticipate speaking today.

14 THE COURT: Okay. All right. Thank you for being
15 here.

16 MR. HART: Good afternoon, Your Honor. Chris Hart
17 for OCM Maritime Gas 4, LLC (indiscernible)

18 THE COURT: Okay. And I guess I should begin by
19 saying my apologies to you in the last order that I did,
20 because I -- I think I had words to the effect that your client
21 doesn't really have a dog in the fight. But they really do
22 because they want to get paid, and I am aware of that, and
23 we'll -- Don't let me --

24 Everybody, we are here today to talk about the
25 potential release of the vessel. And Mr. Hart, I am directing

1 you not to let me finish these proceedings, to -- if I do get
2 to make a ruling without considering the issue that you raised
3 in your response, about how to get your client paid. And I'll
4 hear from everybody on that issue, but don't let me shut this
5 down without at least giving you your cents, your two cents.
6 Okay.

7 MR. HART: Yes, Your Honor. Sounds good.

8 THE COURT: All right.

9 Now, in my last order, I told you all that the first
10 order of business at the hearing will be you all reporting to
11 me about your conference, about your meeting, and how that
12 went, and if you've come up with a joint proposal for the
13 release of the vessel.

14 But anyway, with regard to the conference, did that
15 happen, Mr. Floyd?

16 MR. FLOYD: Yes, Your Honor, the conference did
17 happen. It was quite a fulsome, solid one-hour conference,
18 maybe pushing on to the two-hour mark there amongst a number of
19 us from all the interested parties, including for the
20 custodian, I believe Ms. Haas was on, and certainly Mr. Hart
21 was on as well, and obviously, counsel for the Claimant-
22 purported entity. And we had that conference. Unfortunately,
23 I would say that we have not reached a landing that's mutually
24 agreeable. My impression coming away from the conference was
25 that, speaking here regarding the Claimant and the Plaintiff,

1 that both parts would like to see the vessel released under
2 appropriate protections, but that on the details of how that
3 would work, there was not mutuality.

4 There would also be an acceptance I think on both
5 sides of some form of an escrow account for the vessel
6 revenues, be it freight earned on a voyage charter, or hire
7 earned from time chartering, to be paid into escrow. But even
8 on the details at that level (indiscernible) step back, and
9 also for that escrow account then be utilized to pay the so-
10 called op-ex, or operating expenses of the vessel, and I think
11 that everybody accepts that that would likewise include higher
12 due to OCM under the bareboat, and certainly crew wages for the
13 appropriate crew. But beyond that, there is a general lack of
14 mutuality on topics such as trading limits, other protections
15 that might be necessary, and certainly the most important being
16 who would be in control (indiscernible)

17 THE COURT: Okay. We're going to get into all of
18 these issues. But Mr. Georgantas, I'm going to give everybody
19 a chance to talk. You may not agree with everything Mr. Floyd
20 said, but I take it you agree that you all conferred, and
21 really talked about some issues, but just were unable to come
22 up with an agreement with regard to the release of the vessel.
23 Is that correct, Mr. Georgantas?

24 MR. GEORGANTAS: That is correct, Your Honor.

25 THE COURT: Okay. So now, the issue that I'd like to

1 address today, and hopefully we can come to some agreement, or
2 I can make a decision on this, is whether or not to release the
3 vessel. And I know that the Plaintiff has filed this motion
4 for the release of the vessel, and I don't think -- I know that
5 the owner of the vessel, OCM, filed a response. I don't think
6 that the Claimant, Mr. Georgantas' clients, has filed a written
7 response to that. But you all are on notice what we're to be
8 talking about today, but before I really get too much further
9 in this today, Mr. Georgantas, were your clients intending on
10 filing a response to the Plaintiff's motion to release the
11 vessel? I think under the local rules, it's technically not
12 due until tomorrow.

13 MR. GEORGANTAS: Yeah, absolutely, Your Honor. It
14 will be filed tomorrow, and it will elaborate in more detail
15 some of the things that we will no doubt discuss today. But
16 the answer is yes.

17 THE COURT: Okay. Then I am not going to make a
18 ruling from the bench on this motion, but I'm going to make
19 some inquiries. And I think, Mr. Georgantas, you should be
20 able to argue your respective position, because I basically put
21 everybody on notice what we're going to be talking about in my
22 order, dated April 11th, 2025. So that's what we're doing
23 today. I think everybody knows it.

24 You all are aware of what I'm interested in, whether
25 or not to release the vessel. I think the vessel should be

1 released, if possible. Who the vessel should be released to,
2 what the conditions are, whether or not there should be some
3 form of financial security. If I order the crew to be
4 replaced, how as a practical matter that would occur, how they
5 would be replaced, how they might get back to their countries,
6 who pays for it, those types of things. If the crew is not
7 replaced, what conditions could be in place to make sure the
8 vessel is not going to abscond, and other concerns.

9 And then finally, whether or not the vessel could be
10 placed into the custody of a third party for operating the
11 vessel. And that would be the safest way to go, I think,
12 putting a neutral party, but it may not be the most economical
13 way, and there may be other reasons not for doing it.

14 But with those things that I want to hear about --
15 And just so everybody knows, I do not want to argue the merits
16 of the case. I don't want to hear anything about preferred
17 shares, or the arbitration award. I don't want to hear
18 anything about that. I have stacks of documents that I've
19 read, I've read bankruptcy proceedings, and it's not really
20 that complicated. I think I have a good handle of this. But I
21 think what I -- I'm not saying I'm going to do this, but you
22 all are pushing me to make a decision on the final resolution
23 of this case. I would really like to see the Bankruptcy Judge,
24 the District Judge, and the Second Circuit give me some
25 guidance on how to proceed, and I would like to slow walk this

1 case until I get an answer from those courts. I don't
2 necessarily know that I have to. I don't know that we have to,
3 and at some point you all are entitled to have an answer on
4 this case. But for now, I want to focus today on whether or
5 not to release the vessel. So stay away from the merits of the
6 case, and let's talk about getting this ship back to work.

7 Mr. Floyd, the floor is yours.

8 MR. FLOYD: Yes, Your Honor.

9 Getting the ship back to work, I think it's helpful
10 to give a little bit of background on the context of the meet
11 and confer just so the Court can understand what progress was
12 or was not made. As I said beforehand, there's general
13 agreement, I think it's fair to say, on having some type of an
14 escrow account and that the escrow account could be used to
15 fund op-ex. I have no doubt that parties would need to sit
16 down a little bit further to precisely ink out what counts as
17 op-ex from an accounting perspective and so forth. But I'd be
18 shocked if anybody on this call were going to contest that the
19 bareboat charterer's hire needs to be paid, that the crew on a
20 released vessel (indiscernible)

21 THE COURT: Could you say that again? That sounds
22 important -- that sounds important. Say that again. I want to
23 make sure I'm tracking.

24 MR. FLOYD: The bareboat charterer -- excuse me, the
25 bareboat -- the owner under the bareboat charter is Mr. Hart's

1 client, OCM. In OCM's response to the release motion filed
2 yesterday, or the day prior, OCM made clear that they want to
3 get paid their hire under the bareboat. Mr. Hart had also
4 raised that during the meet and confer that occurred a week or
5 so ago. Nobody's contesting that, as far as I know. We're
6 certainly not doing that. That's recognized. Whether that
7 comes before or after the crew gets paid, I don't know, but I
8 suspect reasonable minds could come to a landing on that. And
9 I'm not trying to be contentious on that at all, I just don't
10 know off the top of my head what makes sense there.

11 But for the escrow issue, my sense is that it doesn't
12 make too much sense to dwell on that, because it's a subsidiary
13 consideration. Certainly, we all have comments and thoughts on
14 it, but that can get worked out. It's the bareboat charter,
15 it's the crew wages, it's port disbursements and so forth,
16 insurance, importantly, things of that nature that, at least
17 from a lay, non-financial perspective, I would think of as
18 being kind of like op-ex, operating expenses.

19 Where there was disagreement was on a number of
20 different topics, but I'd like to -- and that included whether
21 or not there should be trading limits. Our take was that if
22 the vessel was released, there should be trading limits, namely
23 the Caribbean, Mexico, so that she's not going too far afield,
24 halfway around the world, and trading between countries on the
25 other side of the world, in which case all of the risks

1 attended to any type of absconding, or other funny business
2 that could go on would become all the more prevalent.

3 But the real crux of the matter is who, as between
4 Claimant and Plaintiff, would be in control of that vessel
5 during the lease for voyages. And going into the meet and
6 confer, as well as in our motion papers, our position has been
7 emphatically that the Plaintiff should be in control. Mr.
8 Georgantas, on behalf of the so-called Claimants, and I will
9 add just that we don't really know who the Claimants are, but
10 that may or may not be a merits-based issue, so I'll stay away
11 from it. But Mr. Georgantas' position on control of the vessel
12 was that the Claimants should be providing the crew, same crew,
13 same master that they currently have. That is absolutely
14 unacceptable.

15 MR. GEORGANTAS: I'm sorry, Your Honor, I never said
16 the Plaintiffs. I said the Claimants.

17 THE COURT: For the Claimants.

18 MR. FLOYD: (indiscernible)

19 THE COURT: I understand. I'm tracking. Mr. Floyd,
20 I'm going to allow you to continue, but I meant to mention this
21 at the beginning. And I don't want anybody to respond to this
22 now, but I want you to think about it, because before the end
23 of the hearing I'm going to ask you if either side has a person
24 that they would like to sign off on as being responsible, a
25 physical human being that's subjecting themselves to the

1 jurisdiction of this Court, that would be willing to go to jail
2 by an order from me in a contempt proceeding if this vessel
3 takes off. I want to know if you all have a person, a live
4 person that I could have sign some form of document. In the
5 criminal context, it may be called a third-party custodian.
6 But a human being who is willing to say, Judge, I'll make sure
7 this vessel is here. And if it takes off, I'm willing to sit
8 in jail until we can get it, get it back. Think about that.
9 And I'm not saying I'm going to do that, but think about it.

10 Mr. Floyd, you may continue with your argument.

11 MR. FLOYD: Thank you, Your Honor. And that, I know,
12 has also been one of the questions that I've posed to Mr.
13 Georgantas during various discussions, is precisely, well, who
14 goes to jail if it absconds?

15 Moving on, though, the crux of the issue is, though,
16 who remains in control? And from the Plaintiff's perspective
17 and position, it is absolutely unacceptable to have any
18 situation in which the Claimants would continue to man the
19 vessel with its top four officers and crew. The situation
20 currently is that those top four officers and crew should be
21 taking their instructions from our clients, but they are not
22 doing so, which gives us considerable concern in that
23 situation.

24 During the meet and confer, we proposed a compromise,
25 moving away from full replacement of all personnel on the

1 vessel, the full complement of the crew, and instead going with
2 a replacement of the top four officers, the master, the chief
3 engineer, and another two, or something similar to that. That
4 was rejected.

5 We went back to the drawing board on the Plaintiff's
6 side and gave further thought to how to propose a compromise
7 that would seem reasonable. And we went across to Mr.
8 Georgantas, to the Claimants earlier this week, I believe it
9 was about 48 hours ago. It might have been either yesterday or
10 the day prior, it was two days ago, and proposed a third-party
11 approach by which a technical manager would be put in place
12 that would be an independent third-party technical manager, and
13 that another management company would be put in place that
14 would be the commercial manager. We put names to those. I'm
15 sure there's others out there that could do the job as well,
16 but these are two big, well-known participants in the gas
17 market, namely Anglo-Eastern and BWEK. That was likewise
18 (indiscernible)

19 THE COURT: And explain that to me again. Those
20 companies, would they provide a captain? Or what would their
21 role be again?

22 MR. FLOYD: They would -- So the -- And I'm a non-
23 mariner myself, Your Honor. A maritime attorney, but not at
24 sea. But the technical manager would provide, the essence of
25 it would be the technical management company, which would be

1 Anglo-Eastern, would provide the crew, and also carry the DOC,
2 or Documents of Compliance, which is essentially the license to
3 trade under the flag state (indiscernible)

4 THE COURT: When you say the crew, are you proposing
5 the entire crew, or is this the compromise where there would be
6 a partial replacement?

7 MR. FLOYD: The concept here would have been the
8 entire crew. Because I imagine here, and maybe there is some
9 room for flexibility, but I would imagine if Anglo-Eastern came
10 on in, or any similar large scale technical management company,
11 they would want to put their own people on the ship, and know
12 that they are trained, etc. Now, some of those names might be
13 the same, talking at the crew member levels. I'd expect
14 (indiscernible)

15 THE COURT: Well, I understand. Your perspective is
16 they would need to make the decision if they're going to take
17 over the ship, and they may find crew members who are suitable
18 to them.

19 MR. FLOYD: That's correct, Your Honor.

20 THE COURT: And they may hire some of those persons
21 because they're on the ship, familiar with the ship, ready to
22 work. But you're not promising that, and it's just, it may
23 work out that way. You may continue.

24 MR. FLOYD: Correct, Your Honor. And I would be
25 surprised if that would -- and I don't think it would be

1 acceptable if that included the officers, given the situation
2 here. But if some of the crew members remained on board, maybe
3 that happens, but that's beyond my bailiwick.

4 For the commercial management, those are the folks
5 who would go out to the market to find cargos, either for a
6 voyage charter, a time charter, a trip time charter, whatever
7 it might be, and take bids and cut the deals, etc. There's
8 more to a commercial management situation, but that's the
9 essence of it.

10 Our initial proposal for commercial management, or
11 for obtaining cargos and getting some business was to set up a
12 panel, be it two or four, split evenly between the Claimant and
13 the Plaintiff, who would go out to the market as brokers, try
14 to get cargos, and then just take the best bid. But given that
15 that was not acceptable during the meet and confer, we reverted
16 with the concept of just going with the independent commercial
17 management company here, the concept being BWEK, that would run
18 the commercial aspects of the ship, financial aspects.

19 And unfortunately, that has not been accepted. I
20 think that if we can get over that hump, it takes away a lot of
21 the other concerns. Because if there's an independent big
22 party commercial management company in the driving seat,
23 there's a lot less concern about having precise visibility on
24 every single aspect of when \$10 gets paid on a court
25 disbursement. And I'm being facetious there. Or more

1 importantly, there's no concern that a freight rate for the
2 Kithnos, the vessel at issue here, might be artificially
3 reduced, which is a real risk, in order to elevate a freight
4 rate on a different vessel that's also under the erstwhile
5 control of the Claimants in this situation, and effectively
6 shift money around and play a little game of three-card Monte.
7 That's the concern, those types of concerns, but probably also
8 the trading limits go away if we've got a highly respected
9 independent commercial manager, and highly respected
10 independent technical manager coming into play ball.

11 The other concerns they float away. I think all the
12 other details would get sorted at that point.

13 THE COURT: All right. Let me turn it over to Mr.
14 Georgantas. You may proceed.

15 MR. GEORGANTAS: Thank you, Your Honor. I appreciate
16 the Court does not want argument on the merits, and I think
17 there will be --

18 THE COURT: Proceed on my own risk.

19 MR. GEORGANTAS: I will proceed air my own risk.
20 Thank you.

21 But just as a big picture item, I do want to
22 respectfully remind the Court that the burden is on the
23 Plaintiffs to establish that they have probable cause to arrest
24 this vessel in the first place, and maintain the arrest. And
25 we do not think they have met that burden at this point. And

1 nevertheless, they come to you before and with certain
2 inaccuracies in what was presented that I will explain And
3 they're basically asking for what we think amounts to some kind
4 of an interim award whereby they're asking the Court to give
5 control possession of the vessel to the Plaintiffs, or to some,
6 by way of compromise, third-party manager. And yes, Your
7 Honor, for the reasons I will explain, we vigorously oppose
8 that, because we don't even think they're going to be able to
9 carry the day -- to maintain the arrest at the end of the day.
10 But I won't go any further on the merits, but it is something
11 you need to consider, that they're asking you to give them the
12 keys not only prematurely, but as I would point out, without
13 precedent. There is no legal precedent for what they're
14 asking.

15 So let me just get to some of the points that took
16 place at the meet and confer.

17 THE COURT: Okay. Very good.

18 MR. GEORGANTAS: First of all, let's talk about the
19 officers, their so-called compromise to just replace the top
20 officers. Your Honor, that is not a compromise. That is
21 control of the ship. They are suggesting that the vessels
22 master and chief officer would be the deck personnel, and the
23 chief engineer and the second engineer who control the engine
24 room be appointed by Plaintiffs, that that's somehow a
25 compromise, and the rest of the crew would, you know,

1 presumably be the Claimant. That is not a compromise. That is
2 a red herring, and it is not a correct, or even accurate or
3 truthful representation to the Court.

4 These top officers control the vessel. So when Mr.
5 Floyd suggests that we wouldn't even agree to that compromise,
6 that is not a compromise. That is just a different way of them
7 asking for the control of the vessel. Which by the way, if I
8 may add, they already took a (indiscernible) early on when they
9 tried to replace our captain with allegations that he was not
10 cooperating, or there were unsafe conditions on the ship, none
11 of which was proven. And of course, as you know, your order
12 has been complied with without question since that day. That
13 includes documents, reporting procedures, and everything that
14 was in that order, including an email to the captain, with a
15 copy of the order. So this so-called compromise, we reject
16 that.

17 I appreciate from a sort of high point of view that
18 this other next "compromise" that they're suggesting with
19 respect to some neutral party or third-party management has
20 some initial appeal. I respect that. But it does not, and
21 should not persuade the Court. First of all, one of the
22 entities that they recommended, BW, and it's not the full name,
23 but it's BW, that is a direct competitor of the Claimant. A
24 direct competitor. So by giving control of vessels that are
25 controlled by the Claimant, this vessel and potentially other

1 vessels, they're exposing the Claimant's operational details to
2 a direct competitor in a situation that they have not even
3 proved that they're entitled to arrest the vessel, in our view.
4 So it's again, not a good solution.

5 In addition to that, the logistics of having a third-
6 party manager, in terms of safety systems that are in place,
7 insurance policies, vetting procedures that are in place for
8 these vessels to trade with various companies, meaning that
9 they are approved and sea-worthy to carry the cargoes they are
10 supposed to carry, the training of the crew, all that we have
11 right now for these vessels would presumably go away into some
12 kind of an unknown area. And we urge the Court to reject that.

13 So this is just another way of the Plaintiffs telling
14 the Court that, okay, Judge, if you don't give me the vessel,
15 don't give it to the Claimant, but let's give it to a neutral
16 party. But in the process, they're dispossessing us from the
17 vessel on an interim basis without any legal precedent. And
18 that part, Your Honor, will be in our response. Because I can
19 tell you right now, they cannot point to a single case -- I'm
20 not talking about the merits of the case, I'm talking about
21 what they're proposing. They cannot point to a single case
22 that a court approved this type of release that they're
23 suggesting. The only case that we could find, and we're trying
24 to get a copy of it, because it's an older case from the '80s,
25 is a case that the vessel was in fact released to the Claimant,

1 not to the Plaintiff for a short period of time.

2 With respect to the panel of brokers that they
3 suggested that we rejected, not true. They proposed a panel of
4 four brokers, two and two. We suggested that's a recipe for
5 confusion, and that maybe one and one would be a better way to
6 go about it.

7 We did discuss the escrow account, and we were
8 amenable to that. Revenue goes into the account, expenses are
9 paid, obviously the owner gets paid, Mr. Hart's client. We are
10 in agreement on that. I agree we have to work out some details
11 on that, and we're here to work on those, and to the extent
12 that we couldn't agree, the Court could intervene and provide
13 some guidance.

14 Furthermore, in connection with the security that the
15 vessel would not abscond, if I can address that issue, an
16 important part of the meet and confer was left out. And we
17 think this is a very important part. We suggested -- we
18 offered to Mr. Floyd that if they wanted to, we would certainly
19 be amenable to keep a representative of the custodian on board
20 the vessel. The custodian, or the representative would
21 basically ride with the vessel, or some arrangement in that
22 context. And in fact, Ms. Haas, who is here with us today,
23 asked whether, you know, somebody from NMS could be that
24 person, and we responded, you know, we didn't have an
25 objection. So that, we think, is a huge protection, because if

1 the vessel were to abscond, so to speak, which is not going to
2 happen, Your Honor, then we get into kidnapping here, in areas
3 like that. So that's just -- You know, we're starting to get
4 in some kind of twilight zone here, with Mr. Floyd's requests
5 and all that, and concerns about absconding.

6 To further respond to your question, we had a hearing
7 last week before Judge Ellison, and the release and conditions,
8 potential conditions was also discussed. And I'm here to tell
9 you, Judge Ellison asked me point blank, he said, "Mr.
10 Georgantas, if I tell you to bring this ship back, will you
11 bring it back?" And I immediately responded, "Yes, we would,
12 Your Honor." And of course, any other teeth that the Court,
13 Judge Ellison or you would want to put in an order.

14 I appreciate you asked about the person that
15 basically we would nominate, and I'm happy to go back to our
16 client and respond to that request very quickly, Your Honor, in
17 terms of a violation of the order, that somebody physically
18 would agree to come and go to jail if your order to presumably
19 bring the ship back, I assume, was violated, and the ship did
20 not come back, you know, within reasonable travel time to get
21 back to your jurisdiction. So that is something that, you
22 know, we can certainly discuss with our client, and get back to
23 you.

24 The presence of a custodian on board I think is huge,
25 because that would ensure that not only is the custodian on

1 board, but presumably in communication with the Plaintiffs
2 and/or the Court as necessary, because as you know, the
3 custodian is basically a substitute for the U.S. Marshal.

4 With respect to the meet and confer, we also offered
5 to report to them twice a month where the ship would be going.
6 And by the way, these offers, Your Honor, would be made across
7 for the other two vessels that are under arrest in this
8 district. We offered to report to them where the vessels would
9 be going twice a month. We told them, confirmed to them that
10 the vessels' AIS would always be on, because that is a
11 requirement in any event, and they could track the vessel with
12 the AIS signal, electronically. Just about anybody could do
13 that, that has the software.

14 So we further offered for the escrow account to be
15 set in an account that will be within the jurisdiction of the
16 Court. So whatever escrow account is set up, it would be
17 within the jurisdiction of the Court, so the money that goes
18 into the escrow would be within your jurisdiction.

19 With respect to replacing the crew, as things
20 currently stand, there could be logistical problems. Right
21 now, we have two or three crew members on one of the vessels
22 that their contracts have expired, they want to go home, we
23 want to send them home, we want to replace them, but we have
24 had issues with immigration in terms of allowing them to get
25 off the ship. And we're trying to work with the port director

1 in Corpus, and see if we can make some exemption for these crew
2 members to go home, and be replaced. So there will be huge
3 logistical problems with wholesale replacement of the crews, in
4 addition to basically removing crews that know the vessel,
5 they're fully trained, and they have been on board and training
6 on these vessels.

7 With respect to the training limits, Your Honor, it's
8 a little bit of a gray area, and let me express to the Court
9 what our position was on the meet and confer. They want a
10 trading limit, U.S.-Mexico, which by the way, one or two of the
11 vessels have been on what we call a milk run between Texas and
12 Mexico, but that was only because of that particular charter
13 party, or the contract with the shipper of the cargo. But they
14 want a trading limit, Caribbean, sort of Mexico and no further,
15 because then we get into other parts of the world. Again,
16 there's some sort of initial appeal to that because they're
17 close, they're in the Caribbean or the U.S. Gulf. But what
18 remains unassailable is that whether it's the Caribbean or
19 Singapore, they're still out of the jurisdiction.

20 So the concept of limiting the trading pattern or
21 range, if you will, of these ships could affect their
22 profitability. Because you know, we may be able to fix a
23 charter, or book some cargo to go to somewhere other than the
24 Caribbean, but it could be very profitable. Whereas a booking
25 to go back to Mexico, or some other place within a trading

1 restriction would be less profitable. So the trading
2 restriction presents, potentially, a commercial adverse impact
3 in terms of the vessel's ability to gain maximum revenue, as
4 opposed to trying to be safe and stay close, but still well out
5 of the jurisdiction.

6 I'm trying to see here what other proposals we made
7 to them.

8 THE COURT: Can I interrupt? And I'll allow you to
9 go back to your presentation in a minute.

10 MR. GEORGANTAS: Of course.

11 THE COURT: But in many of these types of cases, I
12 see an application for a bond to release the vessel under
13 certain financial security. I haven't seen anything like that
14 presented. Can you address that, about whether or not that's a
15 possibility? If not, why not? Why it hasn't been done, if
16 it's viable? That type of thing.

17 MR. GEORGANTAS: Yes, Your Honor, you're right. In
18 these cases, it's either a bond, or some other type of security
19 that typically, in the maritime world, the vessel's P&I club,
20 the Marine insurer, puts up what we call a Letter of
21 Undertaking. This is in cases where you have an arrest under
22 Rules B and C of the Maritime Rules, where somebody has a
23 claim, or for instance, somebody made a repair on a vessel and
24 they didn't get paid. That gives them a maritime lien to
25 arrest the vessel to get paid. If there's a dispute, the

1 owner, or the P&I club puts up security for the claim, and the
2 vessel is released.

3 Rule D is a little bit of a different animal because
4 we're talking about a possessory interest here that they are
5 claiming, which we don't think they have. So we're talking
6 about, basically, the value of the vessel, and these are going
7 to be significant amounts.

8 With respect to releasing the vessel to the
9 Plaintiffs, it will be the claimant that's exposed. Because if
10 they abscond, we have nothing. And if we prevail, and I think
11 we will on the wrongful arrest, there's going to be significant
12 damages here, and we will not have any recourse against the
13 Plaintiff. And so I think that's a good question that you
14 posed. Whereas if the vessel remains with the Claimant, we do
15 have the escrow account in place that we have proposed, and we
16 can sort out the rest later on, when the Court decides on our
17 motion to vacate.

18 THE COURT: I should have asked this, and I'm sorry
19 about this for both of you, but this agreement with the vessel,
20 this chartering agreement, when does it end? And would it
21 likely be re-upped? That type of thing? Is there --

22 MR. FLOYD: Your Honor --

23 MR. GEORGANTAS: I would like to check, but probably
24 -- I'm guessing maybe another two or three years -- I'm sorry
25 (indiscernible)

1 THE COURT: On the charter agreement, is it set to --

2 MR. GEORGANTAS: (indiscernible)

3 MR. FLOYD: (indiscernible) the bareboat charter, and
4 Mr. Hart would be in the best position to answer that question,
5 and I think that's why he just came on the screen.

6 THE COURT: Okay.

7 MR. HART: Yes. Your Honor, I believe the bareboat
8 charter party will check the terms, but from my memory, it has
9 a five-year term --

10 THE COURT: That's right.

11 MR. HART: -- a date in February 2022, so it would
12 run through roughly February of 2027.

13 THE COURT: Okay.

14 MR. FLOYD: And Your Honor, I believe (indiscernible)

15 THE COURT: And so it's kind of technical, and it
16 doesn't sound like either side's really pushing for a bond.
17 But it's not really the value of the vessel that we're talking
18 about the bond might be for, because neither the Plaintiff or
19 the Claimant own the vessel. You're really talking about the
20 right to use the vessel, and the process in the vessel.

21 Mr. Floyd, I might have --

22 MR. FLOYD: (indiscernible)

23 THE COURT: Go ahead.

24 MR. FLOYD: Your Honor, I know none of us have the
25 exhibit up on the screen or anything at this moment, but I

1 believe that in the bareboat charter, there's also a purchase
2 option on the backend.

3 THE COURT: Okay. Okay. All right.

4 MR. FLOYD: And if I can, on a couple of
5 (indiscernible)

6 THE COURT: Let me -- Before I turn it over to you,
7 Mr. Floyd, just a second. I'm going to let Mr. Georgantas just
8 finish his thoughts, and then I'm going to give each of you
9 just a brief rebuttal, just a very brief rebuttal.

10 But Mr. Hart, can you just give me a general, if you
11 know, an idea about how much -- you know, I don't know if I
12 want to say gross profits, but how much money does this vessel
13 generate over the course of a year? Like, I'm just trying to
14 get my sense of, like, the dollar figures that we're dealing
15 with here, and how much money it's costing to just have this
16 vessel not working. I'm just trying to get a handle on the
17 finances.

18 MR. HART: Well, from the owner's perspective, Your
19 Honor, I can say that off the top of my head, I think the
20 current monthly bareboat charter hire payments are, I think,
21 \$130,000 per month (indiscernible)

22 THE COURT: Does that apply whether or not the ship
23 is working or not? It's not a percentage of the cargo, you all
24 get paid \$130,000 a month whether it's working or sitting in
25 dock?

1 MR. HART: Yes, Your Honor. Yes, that is correct.

2 THE COURT: Okay.

3 MR. HART: It is not contingent on the vessel
4 (indiscernible) bareboat charter.

5 THE COURT: And I'm sorry, did I hear you correctly,
6 it's a month?

7 MR. HART: Yes.

8 THE COURT: Okay. All right. That's important.

9 MR. HART: So that's --

10 THE COURT: For some --

11 MR. FLOYD: Your Honor --

12 MR. GEORGANTAS: Just if I may, I'm sorry, I was
13 going to supplement Mr. Hart's comment, if I may be allowed.

14 THE COURT: You may. You may, and then -- But Mr.
15 Hart, I'm going to go back to Mr. Georgantas after you, but
16 anything else on this kind of profit, or anything else that you
17 want to say before we move back to the adversary parties?

18 MR. HART: Just I can say my calculator does tell me
19 an annual amount of that charter hire would be roughly in the
20 neighborhood of \$1,560,000. Which again, the terms of the
21 charter party may differ. But that provides an approximate
22 range for just the bareboat charter hire. The vessel, while
23 it's in operation, of course has other expenses. But that's
24 one of them.

25 THE COURT: Okay. Understood.

1 All right, Mr. Georgantas, we cut you off in your
2 presentation. I'm going to let you finish that up, and I'll
3 turn it back to Mr. Floyd, and then, Mr. Georgantas, I'm going
4 to give you the last word before I check in with Mr. Hart. So
5 Mr. Georgantas, you may wrap your thoughts up.

6 MR. GEORGANTAS: Right. So I know what the Court is
7 trying to get, so Mr. Hart's client gets his fixed \$130,000 a
8 month. But that is not the gross revenue of the vessel, Your
9 Honor.

10 THE COURT: Understood.

11 MR. GEORGANTAS: That is -- yeah, that is what we pay
12 Mr. Hart. We turn around, and we go out in the market, we
13 carry cargoes, so those revenues are, you know, well in
14 multiple seven figures over a year period. And depending on
15 what the market is doing, you know, did you get a, you know, a
16 good trip or not a good trip -- A little bit of what I was
17 talking about earlier was limiting the vessels trading range
18 with respect to getting a good picture that will pay more money
19 than something else. So we just don't have the number, but
20 it's a significant number, Your Honor.

21 THE COURT: Okay.

22 MR. GEORGANTAS: The other item in the bareboat is
23 this option purchase that we currently have. We are the
24 rightful Claimant, and again, not getting into the merits. And
25 if we're dispossessed of this vessel, whether by the Plaintiffs

1 or by the third-party manager in an interim sort of award, then
2 potentially, if they disappear, and it could happen, then we
3 lose that option that we can exercise. That is our option
4 right now. They have not proven otherwise. They're just
5 coming in here on an interim basis, and in our view on very
6 shaky grounds, but that's for later, for you to decide. But
7 there is an option purchase there that we need to protect on
8 our part with respect to, you know, an interest in the vessel.
9 So just to address that.

10 So as a concluding remark, Your Honor, I just want to
11 conclude kind of the way I started. There is no precedent for
12 what they're asking in this interim kind of manner. We all
13 agree that it would be best for the vessel to gain some
14 revenue, and mitigate losses. And I think the best way to do
15 that is for the vessels to reach -- or this particular vessel
16 to be allowed to continue under the present situation of the
17 Claimant, with the commercial management that we have, the
18 technical management, our crews, and the money to go into an
19 escrow account, and any other precautions that the Court might
20 want to put in place.

21 But we do respectfully request that their suggestion
22 for the Plaintiffs to take over the vessel, or a third-
23 manager, should be rejected, and we will be elaborating further
24 in our response to the motion to release that you can, you
25 know, review at your convenience.

1 THE COURT: Okay.

2 MR. GEORGANTAS: Thank you, Your Honor.

3 THE COURT: All right. Mr. Floyd, I'm going to let
4 you wrap up your comments, and as I said before, then I'll give
5 Mr. Georgantas his final word, and then I'll hear from Mr.
6 Hart.

7 MR. FLOYD: Thank you, Your Honor. And to begin
8 with, I'd like to go to the bond issue, which is somewhat
9 discreet from the other topics here. My rough sense, having
10 looked at a few charter parties over the time and everything,
11 and obviously the rates fluctuate, they're indexed and so
12 forth, is that the value of that ship in the hands of somebody
13 holding, being the charterer under the bareboat, and thereby
14 having the ability to go out and charter it in the market,
15 would be in the range of perhaps \$20,000 per day. So we're
16 talking about a very, very valuable asset with a purchase
17 option on the back end of that 2027 end date for the current
18 bareboat. So it is a very valuable asset in the hands of the
19 rightful holder of that asset.

20 And that somewhat parlays into the next topic, but
21 just underscores from our perspective if the Court has any
22 consideration whatsoever of sending this ship back to sea with
23 any part of the current crew on there, we absolutely believe
24 that the value of a bond to be posted by the so-called
25 Claimants, again don't know who they are, which is another

1 concern, and a very legitimate one, is that it needs to at
2 least be in the value of the ship. And if the Court would like
3 supplemental briefing from any of the parties on that
4 particular issue of what the value of the vessel is, we'd be
5 happy to do so on a bonding topic there. But from our
6 perspective, that ship is never coming back to the U.S. If it
7 gets underway with the so-called Claimant's officers and crew
8 aboard, it's gone.

9 That shifts to the next topic there, of why we have
10 all that concern, and I think that's really where this goes to.
11 I'd like to go to a comment that Mr. Georgantas had during the
12 penultimate, or second penultimate sentence that he was
13 concluding with. He just said, "We want to use the technical
14 management we have in place." Your Honor, the technical
15 management for the Kithnos is Alexin Corporation. Alexin
16 Corporation is a wholly owned subsidiary of Alexin Holdings.
17 Alexin Holdings is our client, it is indisputably our client.
18 That is what Judge Mastando of the United States Bankruptcy
19 Court has said, that is what Judge Lyman has said. They have
20 both underscored that there are not two Alexin Holdings out
21 there, there's just one, and that is our client. There's no
22 dispute about that. And its fully-owned subsidiary, Alexin
23 Corp., is supposed to be the technical manager of this ship
24 right now, but this ship has been effectively, and I'm not
25 being facetious or over the top here, it's been pirated, Your

1 Honor.

2 And Mr. Georgantas earlier in his dialogue, in his
3 argument said that they're going to pull up some precedent from
4 the 1980s about a similar situation. I'm willing -- Judge, you
5 wanted somebody who will go to jail? I'm willing to say right
6 now that Mr. Georgantas finds a precedent from the 1980s
7 holding that pirates got their ship back on a release order,
8 and were able to sail off as the pirates, with their parrots on
9 their shoulders and everything else, after stealing the ship.
10 I'll be the one to go to jail, Your Honor. I'm not confident
11 he doesn't have that case there from a United States court. I
12 think we all know that.

13 But that piracy situation, with no over-the-top
14 discussion, is what's going on here. These ships are owned by
15 the -- the ships are owned by the registered owners, but are
16 supposed to be under the control and operation and revenue
17 earning service of our clients. Yet, despite pumping \$53
18 million, plus a full debt for equity swap into the Bankruptcy
19 Court to bail out a company that had been run into the ground,
20 our clients have yet to get a single penny of freight for hire
21 revenue from any of these ships, including the Kithnos. And
22 that consideration goes to all of the hallmarks that give us
23 considerable extreme concern that the Kithnos is gone if she's
24 allowed to sail with Mr. Georgantas' Claimant crew aboard.

25 Mr. Georgantas proposed, oh, it's all right. They've

1 got AIS, they can track her around the world. Well, that's
2 coming from the same people who down in Panama have a ship
3 called, that we now have under arrest in Panama, but the
4 Kimolos, K-I-M-O-L-O-S, for a corporate reporter needing that.
5 Kimolos is under arrest. Kimolos is the one that -- and I'm
6 not a tech person, but spoofed her AIS system so that she
7 looked like she was on the west coast of the Panama Canal when
8 she was supposed to be, and actually on the east coast, in
9 order to try and avoid an arrest. That's a safety issue right
10 there. Take the people who perpetrated that safety issue, and
11 get rid of them. They shouldn't be anywhere near a ship.
12 That's a danger to everybody, and it's certainly a danger to my
13 client's financial interests. That's a problem right there.

14 Off the coast of Texas, another ship. Two, three
15 months ago, the Kinaros, K-I-N-A-R-O-S (indiscernible)

16 THE COURT: Mr. Floyd, I'm so sorry, I only have a
17 limited amount of time today. But the arguments that you're
18 making about some of the alleged conduct has been presented to
19 me in motions and pleadings with affidavits, and I'm familiar
20 with that. So I don't want to cut you off, but if I give you
21 another 15 minutes, I'm going to need to give it to Mr.
22 Georgantas. So I'll give you just a few more minutes to --

23 MR. FLOYD: (indiscernible) understood.

24 Mr. Georgantas has said that the idea of putting a
25 custodian rep aboard is somehow a cure-all. It's not. There's

1 plenty of little games that could be easily played to get the
2 guy off, guy or woman off the boat in some other port. Steps
3 off, goes to use the port-a-john, not coming back aboard,
4 police situation, all little things that could happen. That is
5 no cure-all. And on top of that, what is a custodian going to
6 do to turn a ship around? That's not their role. There's a
7 master on the ship. It's a ridiculous proposition that goes
8 absolutely nowhere.

9 And Your Honor, I do believe that everything's been
10 fully briefed in the papers here. Just to sum it up, we came
11 to the table last week with reasonable proposals. As I said
12 earlier on, we started off with one proposal, which was on the
13 commercial side to have a panel of four. They said, why not
14 just one, oh, go to one to one. We negotiated, we tried to
15 make different proposals. We said initially, a full crew
16 replacement, then we said top four, then we said go with an
17 independent commercial manager. We have not seen any
18 compromise, any movement whatsoever from the other side. They
19 come back saying that BWEK is a competitor? Okay. Well, BWEK
20 as the commercial manager would be going on out, and marketing
21 the vessel, getting trades, getting cargos, and utilizing the
22 asset to earn revenue. There's no commercial competition
23 there. It's a fanciful argument.

24 All of that goes to they can't be trusted. And this
25 whole idea that they might provide somebody who says that

1 they'll go to jail? They're all over in Greece and Cyprus.
2 And these people have repeatedly ignored, violated, etc.,
3 orders from Judge Lyman and Judge Mastando. They cannot be
4 trusted, and they don't care about United States law.

5 That's all I have, Your Honor.

6 THE COURT: Okay. Mr. Georgantas, last word? If you
7 have --

8 MR. GEORGANTAS: Yeah, Your Honor, I have --
9 Regrettably, you know, Mr. Floyd elected to get into some mud-
10 slinging here, and I have to make a couple of comments.

11 Number one, the comments about us being not to be
12 trusted, or we're bad actors, these comments are coming from a
13 group of people, and I'll be brief here, that basically bribed
14 our CFO. This is in evidence, Your Honor. This is not
15 allegations, like Mr. Floyd is making here in his desperate
16 attempts, and hysterical attempts to paint us in a bad light.
17 This is a finding by the arbitrator, together with evidence of
18 a wire transfer of \$100,000 from Mr. Floyd's clients, bribing
19 our CFO in order to obtain information that would give them an
20 edge in the arbitration, with promises of additional
21 compensation if things both went well. These are the people
22 that Justice Bell and the arbitrator, having seen witnesses,
23 documents in a full arbitration, determined they were immoral
24 and corrupt. Those are his words, not mine. So what you're
25 hearing today, please consider the source of, you know, who's

1 talking here.

2 With respect to having the custodian on board, I
3 would not dismiss that so easily in terms of Mr. Floyd's what
4 could he do. A custodian would be on board, it would be a
5 representative of the U.S. Marshal, from a Federal Court of the
6 United States, and I cannot even begin to think that anything
7 bad would happen to such a custodian. There is no history of
8 this vessel, or the other two vessels that would indicate that,
9 not complying with orders.

10 And in fact, all courts that issued orders with these
11 three vessels all have been complying with. And in particular,
12 the other vessel that is also in your division, the
13 (indiscernible) at some point had to move from Point Comfort to
14 Corpus Christi in order to make the supplying of the vessel
15 easier, and she had to go to port. In order to do that, we had
16 to get a court order, and in order for the vessel to safely
17 navigate from Point Comfort to Corpus Christi with the
18 custodian on board, she had to temporarily leave the U.S.
19 jurisdictional waters. She had to go outside the jurisdiction.
20 She did, she went to Corpus Christi, and per the court order,
21 went back out to the anchorage, as ordered to do, where she
22 remained.

23 So I would ask the Court to completely discard all
24 the hysterical allegations coming from Mr. Floyd, that are not
25 based in fact or any reality of what's going on here, in their

1 attempts to do some sort of interim dispossession, hoping
2 against hope that they might prevail.

3 One last comment (indiscernible)

4 MR. FLOYD: Your Honor, not to interrupt, but I will
5 ask that I have a chance to respond to that. (indiscernible)

6 THE COURT: Just a second.

7 MR. GEORGANTAS: One last item, Your Honor. He may
8 mention again about their investment, and the bankruptcy, and
9 the \$53 million. There were other vessels involved in this
10 fleet. He makes it sound like his client did not receive any
11 value. What they've done here, in big picture, is they've
12 taken the bankruptcy banner that has nothing to do with what we
13 call the gas vessels, and they tried to involve the entire
14 fleet, whereas the bankruptcy involved other vessels that were
15 tankers, and they got value for that. In fact, they already
16 got two vessels worth of value earlier on, and now they're
17 taking the broad brush out and trying to suggest that they paid
18 all this money, or traded for equity, and they didn't get
19 value, and as such confusing other vessels with the gas vessels
20 that are at issue right now.

21 THE COURT: Okay.

22 MR. GEORGANTAS: Thank you, Your Honor.

23 THE COURT: All right. And Mr. Floyd, I'm not going
24 to let you respond, because we'll be here all afternoon. But
25 we're going to -- I'm not going to make a decision for --

1 MR. FLOYD: (indiscernible) false statement that he
2 made, Your Honor (indiscernible)

3 THE COURT: You can file something for the record.
4 Put it on the record, to clear the record up if you need to.

5 MR. FLOYD: I'll do so, Your Honor.

6 THE COURT: You can do a statement for record. But
7 I'm going to keep control of my proceeding, and keep moving
8 forward.

9 MR. FLOYD: (indiscernible)

10 THE COURT: Before I turn it over to Mr. Hart,
11 limited to my question, Mr. Floyd, and I'll ask Mr. Georgantas
12 the same thing, you can't speak for the Second Circuit, the
13 Bankruptcy Judge in the Southern District of New York, or the
14 District Judge. But if you were going to anticipate when we
15 would hear something in the form of a ruling that might provide
16 the Court -- And I know there have been some rulings, and I
17 know there have been some orders, okay, but I'm talking about
18 something dispositive. When would you anticipate there might
19 be an order coming? Just as a practitioner.

20 MR. FLOYD: Your Honor, you're talking about an
21 underlying ruling (indiscernible)

22 THE COURT: I know there are a lot of issues, there
23 are a lot of issues out there. But just to give me an idea, if
24 you think that this is something that will come out this
25 summer, or if it could be 18 months or 12 months before this

1 matter gets cleaned up --

2 MR. FLOYD: (indiscernible) I think that there -- The
3 only projection that I can make there, Your Honor, is that I
4 believe last week, there was another sanctions motion filed the
5 week before the Bankruptcy Court regarding appearances being
6 made around the world on behalf of parties that (indiscernible)

7 THE COURT: Okay. All right. So you're just
8 basically -- You're not certain. There's not, necessarily,
9 something that's imminent.

10 Mr. Georgantas, do you just generally agree with
11 that? Because I really would be -- I'd be remiss if I made --

12 MR. GEORGANTAS: (indiscernible)

13 THE COURT: I'd just be, I'd be making a mistake if I
14 come out with this decision -- Somebody's going to be unhappy
15 with the decision that I make, and if I make a decision, and
16 then a week later we get some guidance, you know, from one of
17 these courts, that was imminent, then I may have been
18 premature. But right now, I'm not inclined to wait.

19 Mr. Georgantas, you may be heard on that.

20 MR. GEORGANTAS: Your Honor, I would like -- I would
21 like to answer. Thank you.

22 First of all, no, no -- The references to sanctions
23 against the lawyer, these are just bully tactics from the
24 Plaintiffs, trying to scare lawyers off, not to represent their
25 clients. But that's all I'm going to say on that.

1 But in response to your question about an order, as
2 far as I'm concerned, all the orders from the Bankruptcy Court
3 or the District Court in New York that pertain to this case
4 have been issued. And (indiscernible)

5 THE COURT: I'm familiar with your position. All
6 right, that's all I need to hear. You're --

7 MR. GEORGANTAS: -- but I do -- Here is my comment,
8 though. They cannot point to a single order, award, or
9 document, other than their invalid documents that they prepared
10 by themselves, without authority, from Eletron Gas, the owner
11 of the Kithnos SME, that shows they have any authority to act
12 on behalf of Eletron Gas, Kithnos SME or the vessel. Not one.

13 THE COURT: All right.

14 MR. GEORGANTAS: The only statement that's correct is
15 in their complaint. I'll conclude with this, and I ask you to
16 look at it, Your Honor --

17 MR. FLOYD: Your Honor, this is all going to the
18 merits.

19 THE COURT: Understood. Understood.

20 MR. GEORGANTAS: (indiscernible) subject, one last
21 comment, Your Honor. Please read their complaint. That was
22 the only verified document that they have filed. And in that
23 complaint, because it was verified, they have admitted that all
24 they control is the common shares of Eletron. It's in their
25 complaint. And they had to say that. That is correct. But

1 those are not the controlling shares, and (indiscernible)

2 THE COURT: Understood. Understood. Understood.

3 MR. GEORGANTAS: (indiscernible) thank you, Your
4 Honor.

5 THE COURT: Mr. Georgantas, I'm cutting you off.
6 There's a lot more to it than that. I understand, there's a
7 lot more to it than that.

8 MR. GEORGANTAS: (indiscernible) I agree.

9 THE COURT: All right. Mr. Hart, anything, before I
10 tell the lawyers what I'm going to direct them to do? I think
11 you're on mute, or --

12 MR. HART: Sorry. Your Honor, I would just like to
13 comment that I'm very glad to be in a case where all the other
14 parties are agreeing that my client should be paid. Otherwise,
15 we're neutral on these other points, Your Honor.

16 THE COURT: Okay. And I don't want to put you in a
17 position of having to get sideways with one of the parties, and
18 I'm not asking you to choose which is your preferred plan. But
19 I'm about to order the lawyers to present orders, their
20 proposed orders on the release of the vessel. Those orders,
21 I'm requiring that they confer with you with regard to how your
22 client will be paid. And so important to me is whether or not
23 their proposed order, with regard to your client being paid, is
24 satisfactory. I'm not asking you to pick which one is more
25 favorable for you, but if the proposed method in these orders

1 that they're both going to submit, if that's agreeable to your
2 client, that's all I really want to know. If it's not
3 agreeable, you can file something, saying why. If it is, the
4 lawyers will just say in their order, this is agreeable to OCM,
5 having conferred with the other side.

6 Generally, these are my marching orders from the
7 lawyers. I wish you could have come up with an agreement
8 amongst yourselves, but that just doesn't happen. And it may
9 not ever happen in a case like this. So the vessel hasn't been
10 released yet. I haven't decided that I'm going to release the
11 vessel, but I really would like to release the vessel. So what
12 I'm ordering both of you all to do, Mr. Floyd on behalf of your
13 clients, and Mr. Georgantas, on behalf of your clients, I'm
14 directing that you file proposed orders to release the vessel.
15 I know you kind of have one, Mr. Floyd, attached to your
16 motion, but that's not really -- it doesn't provide me with
17 enough information.

18 And just so you know, I'm not going to just sign off
19 on a proposed order like I'm granting a continuance. I'm going
20 to do my own order. But I would like you to prepare the order
21 as though you were sitting in my position, answering the
22 questions that we have addressed, about what is going to happen
23 with the crew, what the escrow account is, and whatever your
24 proposed plan is. And I would ask you to do your best to
25 moderate your proposed order. Because if your order -- and if

1 your order is on the extreme side, I might just pick the order
2 on the other side. So I would ask you to come to the middle,
3 and give some ground in your proposed order, understanding that
4 you really might like me to take a different action. But if
5 you want any chance of your order being approved, you know, try
6 to moderate your request in something that me, sitting as
7 someone trying to be impartial, might be willing to sign off
8 on.

9 I'm not going to give you a lot of further
10 instructions. I'm just going to leave it to you to present
11 these proposed orders. Present a nice, clean proposed order.
12 You can submit a brief if you want to with it about -- filling
13 in some details, you know, because the order you probably don't
14 want congested with explanations about it. You can put that in
15 a brief. But have a real nice, clean order for me, because the
16 truth of the matter is that I'm going to use some of the
17 language on the order, assuming I do release the vessel,
18 whosever order I choose to be a guide or framework for
19 releasing the vessel.

20 And I was somewhat jesting about someone being thrown
21 in jail, but to the extent that there is someone who is willing
22 to be responsible for the vessel, and have to come to the Court
23 and answer it, you know, that could be in a proposed order, and
24 you're invited to submit a statement or an affidavit on someone
25 who's willing to submit to the jurisdiction of the Court. I

1 don't even know if that's necessary. But present your best
2 proposed order that you think I might be inclined to grant.

3 And how much time would you like to present your
4 proposed order, Mr. Georgantas? I'm only starting with you
5 because I've been starting with Mr. Floyd.

6 MR. GEORGANTAS: Thank you, Your Honor. We have some
7 responses coming your way in the next day or two, so that's
8 going to be quick. And obviously, we would like for you to at
9 least have those for, you know, further consideration, as they
10 relate to the issues, particularly the motion to release.

11 Could we ask maybe to have something proposed to you
12 by next Friday?

13 THE COURT: I think that's fair. That's pretty
14 quick. That's going to have some associates working on the
15 weekends, but it's not too long.

16 MR. GEORGANTAS: Okay. Okay (indiscernible)

17 THE COURT: I think a week -- I think a week is fine,
18 but I think we need to get the vessel back to work sooner than
19 later.

20 Does a week work for you, Mr. Floyd?

21 MR. FLOYD: That it does, Your Honor.

22 THE COURT: Okay. All right. And so you can file
23 your proposed orders --

24 Mr. Georgantas --

25 MR. GEORGANTAS: (indiscernible) next Friday

1 (indiscernible)

2 THE COURT: A week from Friday. A week from Friday.

3 .MR. IVANOV: Yeah, thanks. That's what I meant.

4 Sorry, Your Honor.

5 THE COURT: Yes, understood. And then, Mr.

6 Georgantas --

7 MR. FLOYD: (indiscernible) a week from next Friday,
8 next Friday being May 2nd, Your Honor?

9 THE COURT: I think I'm thinking a week from
10 tomorrow.

11 MR. FLOYD: A week from tomorrow? Okay, that sounds
12 correct, Your Honor.

13 MR. GEORGANTAS: (indiscernible) that's correct.

14 THE COURT: Okay. A week from tomorrow. And Mr.
15 Georgantas, I also recognize that you have a response that is
16 going to be filed to this motion to release the vessel, and
17 I'll be getting some additional briefing on that. I also note
18 that there's currently, technically not a motion -- there's a
19 motion to vacate the arrest. There's technically not a motion
20 to release the vessel under conditions of release filed by your
21 clients. If I remember this docket correctly, Mr. Floyd's
22 clients have a motion to release the vessel to them. Mr.
23 Georgantas, your clients currently do not have a motion to
24 release the vessel to you all. I'm directing you to file this
25 motion, so you don't necessarily have to file a motion to

1 release the vessel. I will consider your proposed order that
2 you're submitting, essentially, a motion to release the vessel.

3 And I haven't made any decisions on this. I'm really
4 going to look at what you file, and address all of the things
5 that I have to in making a decision. And I look forward to
6 getting your orders.

7 And does anybody --

8 MR. GEORGANTAS: Thank you, Your Honor. If I may
9 explain, the reason you didn't get a motion to release from us
10 is because we filed a motion to vacate, which is basically
11 (indiscernible)

12 THE COURT: And I'm not I'm not criticizing you. But
13 I was just thinking procedurally, I'm ordering you to file a
14 proposed order for relief that you have not sought. But I'm
15 just doing it that way because I think it's the most efficient
16 way, than making you file a motion, and getting everybody back
17 and forth with their responses. If you feel that there's a
18 better procedural way to do it, you may file an appropriate
19 motion. I don't think that there is. I think my idea is a
20 good one. Get your proposed orders, and let me make a
21 decision.

22 MR. GEORGANTAS: (indiscernible) we're going to file
23 a motion to release.

24 THE COURT: Okay. That's fine.

25 MR. GEORGANTAS: (indiscernible)

1 THE COURT: And both sides, just so you know, both
2 sides can -- I don't want your orders, again, congested with
3 arguments and rationale and case law. File me a nice, neat,
4 clean order, and then you can submit a brief along with it on
5 why, filling in some of the gaps, and we'll make a decision.
6 Hopefully, I'll get that decision entered relatively quickly.

7 And just so you all know, that's it for today. If
8 anybody has anything further for today, speak now, or forever
9 hold your peace. Hearing nothing from the lawyers, thank you
10 for your appearances. And you all may not believe this, but I
11 find this case very interesting, and I'm glad that I have had
12 an opportunity to hear from both sides. We'll see you next
13 time.

14

15 (Hearing adjourned at 3:18 p.m.)

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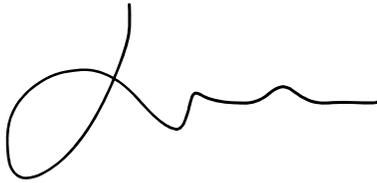
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C E R T I F I C A T I O N

I, Lindsay Peacock, court-approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



Lindsay Peacock

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