

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

E. JEAN CARROLL,

Plaintiff,

v.

DONALD J. TRUMP,

Defendant.

No. 22 Civ. 10016 (LAK)

DEPOSITION DESIGNATIONS AND OBJECTIONS

The parties, having conferred among themselves, designate and counter-designate the below portions of the October 19, 2022 Deposition of Donald J. Trump (“Defendant’s Deposition”), and note their objections for the Court.

A. Plaintiff’s Designations of Defendant’s Deposition and Defendant’s Objections

Plaintiff’s Designations	Defendant’s Objections
12:21 - 13:9	No objection
13:13 - 13:15	No objection
13:17 - 14:6	No objection
16:24 - 17:11	No objection
22:15 - 22:24	No objection
23:21 - 24:2	No objection
31:23 - 32:12	No objection
37:11 - 37:22	No objection
38:4 - 38:20	FRE 402 (Defendant will file a letter brief on this issue)
42:6 - 42:8	No objection
43:4 - 43:10	No objection
44:10 - 44:16	No objection

Plaintiff's Designations	Defendant's Objections
44:20 - 45:4	No objection
45:9 - 45:11	No objection
45:16 - 46:7	No objection
46:15 - 47:10	No objection
50:9 - 50:12	No objection
54:9 - 55:3	No objection
55:7 - 55:18	No objection
56:8 - 56:13	No objection
57:6 - 57:11	No objection
57:15 - 57:18	No objection
61:6 - 61:14	No objection
61:22 - 62:18	No objection
67:22 - 68:21	No objection
69:7 - 69:23	No objection
78:6 - 78:18	No objection
79:4 - 79:7	No objection
80:17 - 80:23	No objection
80:25 - 83:2	No objection
87:6 - 88:3	No objection
88:7 - 88:17	No objection
89:18 - 90:11	No objection
93:19 - 94:20	No objection
95:4 - 95:5	No objection
95:8 - 95:8	No objection
125:22 - 126:3	No objection
127:5 - 127:20	No objection
131:11 - 131:13	No objection
131:16 - 131:20	No objection
131:24 - 132:5	No objection

Plaintiff's Designations	Defendant's Objections
136:24 - 137:3	No objection
137:9 - 137:17	No objection
138:4 - 139:6	No objection
140:17 - 141:2	No objection
141:21 - 142:14	No objection
146:16 - 146:21	No objection
147:3 - 147:17	No objection
147:20 - 148:7	FRE 402 & 403 (Defendant will file a letter brief on this issue)
148:14 - 148:20	FRE 402 & 403 (Defendant will file a letter brief on this issue)
148:22 - 149:2	FRE 402 & 403 (Defendant will file a letter brief on this issue)
149:4 - 149:6	FRE 402 & 403 (Defendant will file a letter brief on this issue)
158:4 - 158:12	FRE 402 & 403 (Defendant will file a letter brief on this issue)
158:14 - 158:21	FRE 402 & 403 (Defendant will file a letter brief on this issue)
168:20 - 168:25	FRE 402 & 403 (preserving objection for appeal)
169:4 - 169:21	FRE 402 & 403 (preserving objection for appeal)
170:2 - 170:4	FRE 402 & 403 (preserving objection for appeal)
173:3 - 173:22	FRE 402 & 403 (preserving objection for appeal)
174:5 - 174:21	FRE 402 & 403 (preserving objection for appeal)
176:8 - 176:11	FRE 402 & 403 (preserving objection for appeal)
180:23 - 181:14	FRE 402 & 403 (preserving objection for appeal)
182:23 - 183:2	FRE 402 & 403 (preserving objection for appeal)
183:25 - 184:9	FRE 402 & 403 (preserving objection for appeal)
184:13 - 184:22	FRE 402 & 403 (preserving objection for appeal)
193:4 - 193:20	FRE 402 & 403 (preserving objection for appeal)
194:11 - 194:14	FRE 402 (Defendant will file a letter brief on this issue)
209:4 - 209:21	No objection

B. Defendant’s Counter-Designations of Defendant’s Deposition and Plaintiff’s Objections

Defendant’s Counter-Designations	Plaintiff’s Objections
50:25 - 51:6	FRCP 32(a)(6); FRE 106 ¹
51:8 - 51:12	FRCP 32(a)(6); FRE 106
55:20 (starting with “it was”) - 56:5	FRCP 32(a)(6); FRE 106
58:5 - 58:6	FRCP 32(a)(6); FRE 106, 403, 611
58:14 - 59:23	FRCP 32(a)(6); FRE 106, 403, 611
60:3 - 60:18	FRCP 32(a)(6); FRE 106
71:4 - 71:24	FRCP 32(a)(6); FRE 106
72:6 - 72:10	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum and Order on Plaintiff’s <i>in Limine</i> Motion, <i>Carroll v. Trump</i> , No. 22 Civ. 10016 (Mar. 27, 2023), ECF 95
72:14 - 73:16	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum and Order on Plaintiff’s <i>in Limine</i> Motion, <i>Carroll v. Trump</i> , No. 22 Civ. 10016 (Mar. 27, 2023), ECF 95
73:18 - 73:20	FRCP 32(a)(6); FRE 106, 402, 403, 602; Memorandum and Order on Plaintiff’s <i>in Limine</i> Motion, <i>Carroll v. Trump</i> , No. 22 Civ. 10016 (Mar. 27, 2023), ECF 95
77:14 (starting with “And if”) - 78:5	FRCP 32(a)(6); FRE 106, 403, 602, 802 ²

¹ Plaintiff objects under Federal Rule of Civil Procedure 32(a)(6) and Federal Rule of Evidence 106 to the extent Defendant designates portions of Defendant’s testimony that are not made “in the interest of completeness.” *In re Sims*, 534 F.3d 117, 141 (2d Cir. 2008) (citing Fed. R. Civ. P. 32(a)(6)). Federal Rule of Civil procedure 32(a)(6) “represents an attempt to preclude the selective use of deposition testimony that might convey a misleading impression.” *Farr Man Coffee Inc. v. Chester*, No. 88 Civ. 1692, 1993 WL 248799, at *19 (S.D.N.Y. June 28, 1993), *aff’d*, 19 F.3d 9 (2d Cir. 1994); *see also Great Am. Ins. Co. v. Moye*, No. 10 Civ. 00330, 2010 WL 2889665, at *2 (M.D. Fla. July 19, 2010) (“Rule [32(a)(6)] is similar to Rule 106 of the Federal Rules of Evidence, and differences between the two are largely semantic.”). Where Defendant’s counter-designations seek to “introduce new material” and “do not serve to ‘give the whole picture’ of a portion” of the deposition that Plaintiff designated, they “are inadmissible.” *Farr Man Coffee Inc.*, 1993 WL 248799, at *19; *accord In re Yasmin & Yaz (Drospirenone) Mktg., Sales Practs. & PMF Prod. Liab. Litig.*, No. 09 Civ. 10012, 2011 WL 6740391, at *19 (S.D. Ill. Dec. 22, 2011); *Chaudhry v. Angell*, No. 173-182, 2021 WL 4461667, at *7-8 (E.D. Cal. Sept. 29, 2021). Defendant will respond to this by Letter Brief.

² Plaintiff objects under Federal Rule of Evidence 802 where Defendant omits questions from the designated testimony or designates incomplete portions of an answer. A deposition may be used only “to the extent it would be admissible under the Federal Rules of Evidence if the deponent were present and testifying.” Fed. R. Civ. P. 32(a)(1)(B). Where an answer is designated without a question and where only portions of an answer are designated, the designation material no longer constitutes “testimony” that might be admissible pursuant to Federal Rule of Civil Procedure 32

Defendant's Counter-Designations	Plaintiff's Objections
80:4 - 80:16	No objection
103:6 - 103:19	FRCP 32(a)(6); FRE 106
116:22 - 117:4	FRCP 32(a)(6); FRE 106
119:5 - 119:22	FRCP 32(a)(6); FRE 106
119:24 - 120:15	FRCP 32(a)(6); FRE 106
130:6 - 130:16 (ending with "would happen")	FRCP 32(a)(6); FRE 106
131:5 - 131:9	FRCP 32(a)(6); FRE 106, 403
132:9 - 134:13	FRCP 32(a)(6); FRE 106, 403, 611
134:19 - 134:24	FRCP 32(a)(6); FRE 106, 602, 802
137:18 - 138:3	FRCP 32(a)(6); FRE 106, 403
139:8 - 139:24	FRCP 32(a)(6); FRE 106, 602, 802
141:3 - 141:20	FRCP 32(a)(6); FRE 106, 403, 602
146:22 -147:2	No objection
148:9 - 148:13	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802
172:3 - 172:10 (Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	FRCP 32(a)(6); FRE 106, 402, 403, 802
174:22 - 175:4 (ending with "people talk") (Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	FRCP 32(a)(6); FRE 106
176:12 - 176:17 (ending with "remember it")	FRCP 32(a)(6); FRE 106, 403, 602, 802

and, here, instead constitutes inadmissible hearsay under Federal Rule of Evidence 802. *Compare* Fed. R. Evid. 801(d)(2) (excluding from the definition of hearsay an opposing party's statement only where the statement is offered *against* that opposing party). Defendant will respond to this by Letter Brief.

Defendant's Counter-Designations	Plaintiff's Objections
(Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	
176:19 (starting with "a long time") – 177:4 (ending with "phony charge") (Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	FRCP 32(a)(6); FRE 106, 403, 602, 802
183:13 – 183:23 (ending with "disgrace, also.") (Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	FRCP 32(a)(6); FRE 106
185:3 – 187:3 (Defendant designates only because of <i>in limine</i> ruling on this issue and Plaintiff's designations on this issue, and reserves all rights on appeal)	FRCP 32(a)(6); FRE 106, 402, 403, 602, 802
191:25 – 192:22	FRCP 32(a)(6); FRE 106, 403
210:17 - 210:19	FRCP 32(a)(6); FRE 106
210:22 - 210:25	FRCP 32(a)(6); FRE 106
215:3 - 215:19	FRCP 32(a)(6); FRE 106, 602

Dated: April 20, 2023

Respectfully submitted,

/s/ Joseph Tacopina

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