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Case No. 2022-1179-CDW

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CHARLIE JAVICE, Plaintiff, v. JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE & CO., and TAPD, LLC, Defendants.	)	C.A. No. 2022-1179-CDW

PLAINTIFF'S MOTION TO EXPEDITE AND FOR WORD LIMIT EXTENSION IN CONNECTION WITH RULE 88 MOTION

1. JPMorgan[1] has tactically breached its obligations to advance the costs of Charlie Javice's defense – first by imposing unilateral and arbitrary cuts in defense costs of 30% to 50% during trial, and now by imposing baseless cuts up to 100% during sentencing and appeal. JPMorgan's efforts not only breach its Court-ordered obligation to advance reasonable defense costs, but intentionally obstruct Ms. Javice's defense at a time when she needs it the most. By defying this Court's prior rulings as Ms. Javice begins her appeal, JPMorgan seeks to prevent Ms. Javice from retaining counsel of her choice to pursue her meritorious appeal.

2. Expedition is warranted and needed to ensure Ms. Javice's rights to counsel for her appeal. Until October 24, JPMorgan imposed unwarranted

[1] For simplicity, Plaintiff refers to all Defendants as "JPMorgan."

objections that started during trial and cut payments to Ms. Javice's counsel by up to 50% in certain categories. To address those objections in an organized way, Ms. Javice and JPMorgan were negotiating to extend word counts and set deadlines for an omnibus Rule 88 application.

3. But on October 24, JPMorgan escalated this dispute significantly. In a transparent attempt to hinder Ms. Javice's ability to retain appellate counsel, JPMorgan for the first time imposed blunderbuss objections for critical work in September in connection with sentencing. JPMorgan refused to pay for 95% of virtually every time entry by Quinn Emanuel (which led drafting of her sentencing memorandum and presentence report objections, appeared at her presentence interview, and interfaced with the Government). It refused to pay any firm for work in connection with the sentencing and bail hearings by attorneys who did not speak on the record, notwithstanding the enormous efforts required to prepare for those hearings. It refused to pay for critical work done on "loss analysis" for sentencing (except at a 70% discount for Mintz Levin and 80% for Shapiro Arato). Counsel's work in connection with Ms. Javice's sentencing was life-changing – resulting in a 7-year sentence, less than the "life" suggested by the Sentencing Guidelines, and far below the 12-year sentence requested by the Government. To punish Ms. Javice for that outcome and jeopardize her representation on appeal, JPMorgan now threatens to cut-off advancement entirely.

4. JPMorgan's excuse is that Ms. Javice has purportedly retained too many law firms and charged too much. That is pure hypocrisy. JPMorgan has been represented by ***six law firms*** in connection with the Javice matter, but complains Ms. Javice retained five (three of which are small criminal or appellate boutiques). JPMorgan used ***more than 50 lawyers*** to (belatedly) produce discovery in the criminal proceeding, but now complains about Ms. Javice's smaller trial team. JPMorgan ***refuses to disclose its own billing*** (despite its obligation to do so), while criticizing the broadly comparable spending of Ms. Javice and her co-defendant. Indeed, JPMorgan is ***a principal cause*** of Ms. Javice's defense costs. It violated court-ordered discovery deadlines and failed to timely produce an appropriate privilege log, necessitating months of motion practice.

5. JPMorgan's tactics are not only hypocritical, they are legally baseless. This Court's orders require JPMorgan to advance "reasonable" defense costs. Reasonableness is determined by the Court, not JPMorgan. JPMorgan's strategically-timed objections are not a good faith assessment of the reasonableness of work done in Ms. Javice's defense. In fact, some of the billing it complains about concerns periods and issues long ago resolved by the parties.

6. Expedited proceedings are needed to resolve promptly that JPMorgan is not entitled to impose baseless and unwarranted objections to almost all of Ms. Javice's defense costs. Continued uncertainty in light of these sweeping objections

will prejudice Ms. Javice's ability to retain her preferred appellate counsel, Shapiro Arato. That risk – Ms. Javice's "inability to retain counsel without advancement" – is precisely the circumstance that this Court has said justifies expedition. *Brown v. Rite Aid Corp.*, 2004 WL 723153, at *1 (Del. Ch. Mar. 29, 2004).

7. Accordingly, Ms. Javice moves to expedite consideration of her Rule 88 Application and increase the word count to allow for comprehensive briefing of JPMorgan's multiple, baseless objections.

BACKGROUND

8. On March 31, 2023, the U.S. DOJ indicted Ms. Javice in connection with JPMorgan's acquisition of TAPD (the "DOJ Action"). JPMorgan, dissatisfied with that acquisition, brought these claims to the Government and has financial and reputational reasons to support Ms. Javice's prosecution. JPMorgan also filed a fraud action and prompted a separate suit by the SEC. As a result, Ms. Javice's assets were frozen.

9. JPMorgan vigorously contested Ms. Javice's right to advancement, forcing her to file this action. On May 8, 2023, this Court ruled that JPMorgan must advance Ms. Javice's legal fees and expenses in connection with her defense of the aforementioned proceedings. Dkt. 61. On June 27, 2023, the Court entered a *Fitracks* Order (the "Order").

10. In accordance with the Order, Ms. Javice submitted detailed advancement demands each month. However, JPMorgan made repeated unwarranted objections.

11. On October 18, 2023, Ms. Javice filed a Rule 88 motion to resolve JPMorgan's objections. Dkt. 80. On February 14, 2024, the Court overruled JPMorgan's objections, explaining that a detailed review of Ms. Javice's fees was inappropriate at the advancement stage. Dkt. 90.

12. But as trial approached in the DOJ Action, JPMorgan again attempted to inhibit Ms. Javice's defense. JPMorgan began unilaterally slashing counsel's fees by nearly half in the name of purported overstaffing due to Ms. Javice retaining multiple law firms. Yet it reportedly imposed similar objection to the fees of Ms. Javice's co-defendant, Olivier Amar, despite the fact that Mr. Amar relied principally on a ***single law firm***.

13. On March 29, 2025, a jury found Ms. Javice guilty in the DOJ Action. On September 29, the court (Hellerstein, J.) sentenced her to seven years, rejecting Sentencing Guidelines analyses that might have imposed a sentence of life and a Government proposal for 12 years. Judge Hellerstein noted the significance of an appeal, acknowledging a reasonable basis for "***a reversal or an order for a new trial***." Dkt. 118 at Ex. 2 (emphasis added). Judge Hellerstein further granted bail

pending appeal, which requires a finding that her appeal "raises a substantial question of law or fact likely to result in … a new trial." 18 U.S.C. § 3143(b).

14. Eleven days later, Ms. Javice submitted her September 2025 Demand for work in connection with the sentencing. In response, JPMorgan baselessly withheld 80 to 100% of Ms. Javice's fees and expenses. Dkt. 118 at Ex. 1. By doing so, JPMorgan seeks to prevent Ms. Javice from retaining sophisticated appellate counsel to pursue appeal. A small firm like Shapiro Arato Bach LLP, Ms. Javice's appellate counsel, cannot risk that its efforts may be unpaid or significantly cut.

15. Ms. Javice is required to file a notice of appeal by November 13, 2025.

ARGUMENT

16. Advancement proceedings by their very nature "must be summary in character, because if advance indemnification is to have any utility or meaning, a claimant's entitlement to it must be decided relatively promptly." *In re Lipson v. Supercuts, Inc.*, 1996 WL 560191, at *2 (Del. Ch. Sept. 6, 1996).

17. As such, "[o]nly when unique circumstances are present, e.g., insolvency of the putative indemnitee or inability to retain counsel without advancement, will [a court] entertain a request to 'expedite' a proceeding that is already summary in nature." *Brown*, 2004 WL 723153, at *1.

18. That is precisely the case here, where JPMorgan has objected to the vast majority of Ms. Javice's legal fees. JPMorgan seeks to profit from "litigation-related

delays over advancement [that] threaten to undermine" "the policy of providing prompt reimbursement to present and former directors and officers who have had to incur attorneys' fees and related expenses." *Mooney v. Echo Therapeutics, Inc.*, 2015 WL 3413272, at *8 (Del. Ch. May 28, 2015).

19. To earn expedition, Ms. Javice must demonstrate: (1) "a colorable claim" and (2) "sufficient possibility of threatened irreparable injury." *Ehlen v. Conceptus, Inc.*, 2013 WL 2285577, at *2 (Del. Ch. May 24, 2013); *In re Gen. Motors (Hughes) S'holders Litig.*, 2003 WL 26474920, at *1 (Del. Ch. Oct. 2, 2003); *Laborers Local 235 Benefit Funds v. Starent Networks, Corp.*, 2009 WL 4725866, at *1 (Del. Ch. Nov. 18, 2009). She easily satisfies both prongs.

I. Ms. Javice's Claims Are Colorable

20. Ms. Javice's advancement claims are colorable. For her September 2025 Demand, JPMorgan withheld **almost 80%** of the fees and expenses billed. Dkt. 118 at Ex. 1. It challenges Ms. Javice's retention of multiple law firms and makes conclusory allegations of overstaffing and duplication of efforts. *Id*. But as this Court explained in its February 2024 ruling, advancement "is not the proper stage for a detailed analytical review of the fees, whether in terms of the strategy followed or the staffing and time committed." Dkt. 90 at 7.

21. JPMorgan disregarded that ruling. It objected to multiple self-identified categories: "Quinn Emanuel Overbilling," "Appellate Work," "Strategy

and Submissions," "Sentencing Attendance," "Sentencing Hearing Prep," "Loss Analysis," and "Peripheral Timekeepers." Dkt. 118 at Ex. 1. For "**Quinn Emanuel Overbilling**," for example, JPMorgan simply listed virtually every billing entry from Quinn Emanuel, de-duplicated for entries subject to other objections, and then arbitrarily imposed a **95% cut**. It offers no basis for that approach.

22. JPMorgan further imposed arbitrary discounts for other objections:

- **80% cuts** for any work on "**Strategy and Submissions**,"
- **90% cuts** for "**Appellate Work**,"
- **96% cuts** for any work on "**Sentencing Hearing Prep**,"
- **79% cuts** for work on "**Loss Analysis**,"
- **100% cuts** for anything JPMorgan characterized as "**Sentencing Attendance**" except by attorneys who presented at the hearing, and
- **100% cuts** for what JPMorgan claims are "**Peripheral Timekeepers**."

23. JPMorgan does not even attempt to explain how it arrived at these percentages or why different law firms received difference percentages. "Attorneys are entitled to be compensated for all their work in a given day and not just an arbitrary portion of it." *In re TransPerfect Glob., Inc*., 2021 WL 1711797, at *33 (Del. Ch. Apr. 30, 2021), *aff'd sub nom. TransPerfect Glob., Inc. v. Pincus*, 278 A.3d 630 (Del. 2022). Nor does JPMorgan offer a reason for why it ***randomly increased***

the percentages it withheld this month, other than to hamstring Ms. Javice's defense at a critical time.

24. JPMorgan's objection to the number of law firms is baseless. This Court has routinely found the retention of multiple law firms reasonable. *See, e.g.*, *O'Brien v. IAC/Interactive Corp.*, 2010 WL 3385798, at *9 (Del. Ch. Aug. 27, 2010), *aff'd sub nom. IAC/InterActiveCorp v. O'Brien*, 26 A.3d 174 (Del. 2011) (finding the retention of ***four firms*** reasonable in light of the "particular procedural stage of the case" and there being "no evidence that O'Brien's counsel provided any services in bad faith or that specific services resulted in excessive or duplicative fees"); *Aveta Inc. v. Bengoa*, 2010 WL 3221823 (Del. Ch. Aug. 13, 2010) (awarding fees "for a combined ***four different law firms***, twenty different lawyers, and seven different paralegals"); *Tafeen v. Homestore, Inc.*, 2005 WL 789065 (Del. Ch. Mar. 29, 2005), aff'd, 888 A.2d 204 (Del. 2005) (awarding fees for ***all three sets of counsel*** retained by plaintiff and only reducing by a relatively minor amount the fees sought by the third counsel associated with "transition costs."). Moreover, JPMorgan's grounds for refusing appropriate advancement of Ms. Javice's fees are clearly pretextual, because JPMorgan has granted itself similar discounts against Mr. Amar's fees, despite the fact that Mr. Amar has essentially used ***one law firm***.

25. JPMorgan's objection is particularly hypocritical because it has used ***at least six*** major law firms in connection with the Javice matter, including Davis Polk

& Wardwell, Vinson & Elkins, Hogan Lovells, Potter Anderson & Corroon, Greenberg Traurig, and Nagy Wolfe Appleton. JPMorgan has repeatedly refused to disclose to Ms. Javice how much it is compensating these six law firms.

26. These firms have billed heavily to this matter – which makes sense given its complexity and importance. Davis Polk attorneys were present at every hearing and every day of trial, often sending three or more senior attorneys; they argued at the pre-trial conference and sentencing; and they enlisted more than 50 attorneys to re-review JPMorgan's deficient privilege log. Similarly, Vinson & Elkins represented several JPMorgan employee witnesses and sent multiple attorneys to observe trial. Hogan Lovells oversaw JPMorgan's production in response to Government subpoenas, prepared JPMorgan's extensive motions to quash subpoenas issued by Ms. Javice and Mr. Amar, and argued at hearings on discovery, custodians, and privilege. Nagy Wolfe also represented JPMorgan in the DOJ Action. In this advancement action alone, JPMorgan has used Potter Anderson, Greenberg Traurig, and Davis Polk.

27. Moreover, JPMorgan cannot complain about cost when it contributed to Ms. Javice's expenses by providing insufficient discovery, leading to more than a year of attorney-intensive pre-trial motion practice and tremendous amounts of work to identify the missing (and in some cases, deleted) materials. For example, it took ***more than a year*** of negotiation, briefing, and argument before JPMorgan produced

text messages between key employees, many of whom were later trial witnesses. JPMorgan also wrongly withheld thousands of documents on privilege grounds, requiring Ms. Javice's counsel to spend almost a year fighting for a legally sufficient privilege log and supplemental production.

28. JPMorgan cannot throw rocks and hide its hands. Despite employing six firms, JPMorgan refuses to disclose to Ms. Javice what it spent. It will be barred from arguing her fees are unreasonable. *Ensing v. Ensing*, 2017 WL 880884, at *12 n.136 (Del. Ch. Mar. 6, 2017) ("Unless [defense] counsel [] produces their own billing records in full in support of an argument the [plaintiff's] bills are too high, I shall consider the [Plaintiff's] amount sought to be reasonable.").

29. JPMorgan's individual objections are no more colorable. For example, for work related to sentencing preparation, JPMorgan objects to the "aggregate fees [that] reflect a summation of timekeepers' entries that specify 'sente*,' 'PSR,' 'valuation,' 'forfeiture,' 'loss,' or similarly described sentencing preparation workstreams," without undertaking any reasonableness analysis. Dkt. 118 at Ex. 1 ¶ 80 n.12. For "appellate work," JPMorgan arbitrarily withheld "seventy percent (70%) of the fees that Shapiro Arato incurred in connection with the September 2025 Demand and one hundred percent (100%) of the bail pending appeal work performed by Quinn Emanuel and Mintz Levin." *Id.* ¶ 77. The only "appellate work"

JPMorgan paid was time spent by Alexandria Shapiro preparing for and attending the sentencing hearing.

30. For "sentencing strategy and submissions," other than making vague complaints about the "sheer volume of timekeepers," *id*. ¶ 81, it cut all fees by 80%. For "loss analysis" (a critical aspect of sentencing), JPMorgan objected to 100% except pats itself on the back for "***conservatively*** withholding" 80% of Shapiro Arato's fees and 70% of Mintz's fees in that category. *Id*. ¶ 89 (emphasis added). But the most egregious of JPMorgan's withholdings relate to "sentencing hearing preparation," where it withheld 80% from Quinn and Mintz, 95% from Sullivan Law, and 100% from Baez Law. *Id.* ¶ 95.

31. This Court has rejected this type of second-guessing of staffing and time. *In re TransPerfect Glob., Inc.*, 2021 WL 1711797, at *35 (overruling a objection that "the Action continues to be conducted without efficiency" when respondent could not point to anything improper about the entries).

32. Nothing in the challenged entries warrants second-guessing by JPMorgan. JPMorgan does not make a single challenge to the adequacy of the time entries; its objections are based entirely on its belief that Ms. Javice had assistance from too many lawyers who billed too much. That is not an appropriate basis to object. *See In re TransPerfect Glob., Inc.*, 2021 WL 1711797, at *42 (overruling

objection because objector advocated to "slashed [fees] to no more than 25%" without "any reasoned explanation.").

II. Ms. Javice Will Suffer Irreparable Harm Without Expedition

33. Ms. Javice faces real irreparable injury if JPMorgan's improper objections are not promptly rejected. Ms. Javice intends to appeal the jury verdict, and the trial judge agreed that "***there are questions of law and fact which a reasonable person might regard as substantial, and which, if successful, would result in a reversal or an order for a new trial***." Dkt. 118 at Ex. 2 (emphasis added). However, the trial judge conditioned granting bail on counsel "agree[ing] to no requests for adjournments from the court of appeals." *Id.* Thus, the appeal will proceed quickly, and non-payment by JPMorgan threatens Ms. Javice's ability to present those "substantial" issues recognized by Judge Hellerstein.

34. If JPMorgan is allowed to materially breach its advancement obligations, which it will continue to do, Ms. Javice risks losing appellate counsel of her choice. Ms. Javice seeks to be represented on appeal by appellate specialist Alexandra Shapiro, whose small firm should not have to risk the possibility of litigating Ms. Javice's appeal without being paid. That is why Chancellor Chandler recognized that disputes involving the "inability to retain counsel without advancement" require expedition. *Brown*, 2004 WL 723153, at *1.

III. A Word Limit Extension Is Warranted

35. Paragraph 12 of the Order limits briefing on the Rule 88 Motion and opposition to 3,000 words and a reply to 2,000 words.

36. Here, however, Ms. Javice seeks to present a comprehensive motion addressing trial and post-trial work over nine months. On those invoices, JPMorgan has made objections to no less than ***12 separate issues***.

37. On Ms. Javice's previous Rule 88 Motion, which addressed fewer issues, the parties stipulated to 7,500 words for opening and answering briefs and 4,300 words on reply. This motion will have more issues, and thus Ms. Javice unsuccessfully sought to reach agreement with JPMorgan on an extension. Ms. Javice submits that 10,000 words for opening/answering briefs, and 6,300 for the reply brief, would allow the parties and the Court sufficient briefing on the numerous issues and periods subject to the motion.

CONCLUSION

38. Ms. Javice respectfully requests that the Court grant her motion to expedite consideration of the Motion and allow 10,000 words for opening and answering briefs, and 6,300 words for a reply brief.

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