



101 Park Avenue, 17th Floor  
 New York, NY 10178  
 ☎ 212.878.7900 📠 212.692.0940  
 WWW.FOXROTHSCHILD.COM

March 4, 2026

BRIAN S. COUSIN  
 Direct No: 646.601.7667  
 Email: bcousin@foxrothschild.com

**VIA eCourts**

Honorable Nicholas Ostuni J.S.C.  
 Bergen County Courthouse  
 10 Main Street  
 Hackensack, New Jersey 07601

**Re: Hartounian, et al. v. Krikorian (BER-C-287-25)**

Your Honor:

We represent Defendant Van Krikorian in the above-referenced matter. The parties have been working together to prepare a proposed Order following the February 4, 2026 hearing on the Plaintiffs’ motion for a preliminary injunction in aid of arbitration (the “PI Hearing”). Although the parties were able to agree on the vast majority of the language for the proposed Order, one issue remains outstanding which requires this Court’s attention – the language of Section D of the proposed Order (we understand that the Plaintiffs are simultaneously submitting to the Court a proposed Order which includes their proposed language for Section D). Section D of the proposed Order concerns the power of the arbitral tribunal, going forward, to remove or modify the preliminary injunction issued by the Court in aid of arbitration. This issue was specifically addressed at the PI Hearing and the transcript of the PI Hearing confirms that the Court clearly ruled that the Order should include the arbitral tribunal’s power, upon the application of Defendant, to remove or modify the preliminary injunctive relief issued by the Court.

Accordingly, Defendant respectfully requests that the Court adopt and include the following language as Section D of the Order:

D. Provided that Plaintiffs timely initiate arbitration proceedings pursuant to Paragraphs B & C above, this Order shall not automatically terminate upon the empanelment of the arbitral tribunal but remain in full force and effect; provided, however, that the arbitral tribunal, upon application by Defendant, shall have the power to remove or modify the preliminary injunctive relief entered in aid of arbitration and set forth in Paragraph A of this Order.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Massachusetts Minnesota Missouri  
 Nevada New Jersey New York North Carolina Oklahoma Pennsylvania South Carolina Texas Washington

Honorable Nicholas Ostuni J.S.C.

Page 2

March 4, 2026

The following relevant portion of the PI Hearing transcript confirms that the Court decided that the Order should include a provision making it clear that the arbitral tribunal shall have the power, going forward, upon application by Defendant, to remove or modify the preliminary injunctive relief granted by the Court (Plaintiffs' proposed Section D would leave the arbitral tribunal's power to remove or modify the preliminary injunction undetermined and Plaintiffs would be free to argue that the arbitral tribunal does not have the power to remove or modify):<sup>1</sup>

**THE COURT: If the arbitrators after they're empaneled by application by you to remove any relief, that's what the law allows.**

\* \* \* \* \*

**THE COURT: And so we're clear -- so we're clear, that is my order. And if it -- and I think it should be included in the -- in the order. Mr. Derman, do you disagree that the arbitrators have a right to review whether or not that stays?**

MR. DERMAN: I'm not -- I'm not sure. It sounds like it they would, but this -- these issues were not presented, you know, before. And that's, certainly, arbitrators -- he can make that argument to the arbitration panel and we'll address it at that time. I just do not see how it's anything that needs to be addressed now...

\* \* \* \* \*

**THE COURT: Mr. Derman, you -- you have -- you -- you know this. You know this. You know the cases. You just were about to argue to Mr. Cousin exactly -- if I didn't know you were going to educate the Court and Mr. Cousin on when the relief can be terminated. And you know full well that it -- an arbitrator can revisit this upon application. So, I'm not going to leave my order to be ambiguous because it wasn't raised before the Court. And I'm not going to -- I'm not going to deal with -- I'm not going to deal with a five-day order that causes me to do more research and review th[a]n I did with this mountain of paperwork to make this decision. My order, consistent with the law. And if I have to do research on it, then I will include it. But it -- unless you can tell me that I'm wrong, that my decision to allow the arbitrator, upon application from Mr. Cousin, to remove the preliminary relief that I put in place is not lawful, that is my order...**

\* \* \* \* \*

**THE COURT: If this wasn't an arbitration case, if this was just preliminary injunctive relief that I'm granting today and the case was going to remain before me, as the case progresses, as evidence comes about, documents, depositions, additional sworn testimony,**

---

<sup>1</sup> Similarly, we believe the Court never intended to impose any limitations or restrictions on the arbitral tribunal's power or ability to remove or modify the preliminary injunctive relief ordered by the Court in aid of arbitration.

Honorable Nicholas Ostuni J.S.C.

Page 3

March 4, 2026

witness statements, it wouldn't be the first time an applicant who had injunctive relief granted against them came back to the Court and said, Judge, now that we've gotten a little further along in this litigation, at this time we'd like you to revisit the relief that you've granted the last time...**But the reality is, at some point in time, when this is being litigated in front of an arbitration panel, I presume, they need to have the ability and I think the law allows especially if I give it, the ability to look at this thing as it's progressing and say we're going to change this. We should change this...**

MR. DERMAN: On top of that, Your Honor, it -- it -- it was something raised in my opinion for the first time just now. I don't have a problem with it.

THE COURT: What I -- all right. Mr. Derman, what I'm trying to avoid, though, is another application and another -- this is fairness.... **[I]f this case was to remain here, I would reserve the right to review this injunctive relief at any portion throughout this litigation. And I think the same should be held by anybody who's going to be overseeing and managing this litigation. This is simply the basis of my equitable point. So, if you don't have a problem, make sure you include it in the order. If you do have a problem with it, I'm going to include in the order unless I'm convinced that that is wrong.**

PI Hearing Transcript, pp. 84:4 – 89:7 (emphasis added); *see also* N.J.S.A. 2A:23B-8(b) (“After an arbitrator is appointed and is authorized and able to act: (1) the arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and pursuant to the same conditions as if the controversy were the subject of a civil action;...”).

Accordingly, Defendant respectfully requests that the Court adopt and include Defendant's proposed Section D in the Order, consistent with the Court's ruling during the PI Hearing and as reflected in the transcript. We thank the Court in advance for its attention to this matter.

Respectfully submitted,



Brian S. Cousin

cc: All Counsel: via eCourts and email