

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 25-CV-21129-MOORE/Elfenbein

IN RE:

GASTON BROWNE CORRUPTION  
DISCOVERY APPLICATION

**MEMORANDUM OF LAW IN SUPPORT OF SUPPLEMENTAL *EX PARTE*  
APPLICATION FOR AN ORDER UNDER 28 U.S.C. § 1782 TO ADD ADDITIONAL  
DISCOVERY SUBJECTS**

**TABLE OF CONTENTS**

PRELIMINARY STATEMENT..... 4

BACKGROUND ..... 6

I. Overview of the Seizure..... 6

II. The Court’s Previous Order Granting Applicant Discovery Pursuant to § 1782 ..... 7

III. Newly Uncovered Evidence Reveals the Need to Add Discovery Targets..... 8

A. A Witness Account Reveals a Kickback Behind the *Alfa Nero*’s Discounted Price..... 8

B. Antiguan Passports and Broker Foreknowledge Show the Sale’s Unusual Nature ..... 9

C. The Government’s Own Surveyor Valued the *Alfa Nero* Far Above the Sale Price..... 12

IV. Browne Initiates An Additional Foreign Proceeding in Antigua and Barbuda..... 14

V. The New Discovery Subjects ..... 16

A. Further Scrutiny of the 2024 Sale: Deposing Northrop and its President ..... 16

B. The Vessel’s Current Positioning for Resale: Fraser ..... 17

C. The Corporate Parent: MarineMax..... 18

D. Browne’s Son and Business Proxy: Gaston Andron Browne III ..... 19

E. Further Scrutiny of the 2023 Attempted Sale: Warren E. Halle..... 19

ARGUMENT..... 20

I. The Supplemental Application Satisfies the Statutory Requirements for Discovery..... 20

A. The Discovery Subjects Reside or Are Found in this District..... 21

B. The Discovery is “For Use” in the Foreign Proceedings ..... 22

C. The BSF Respondents Are “Interested Persons” ..... 26

D. The Requested Discovery Seeks Evidence ..... 26

II. Each of the Discretionary *Intel* Factors Supports Granting Supplemental Discovery ..... 27

A. The Discovery Subjects Are Not Participants in the Foreign Proceedings ..... 27

B. Receptivity of the Foreign Tribunal ..... 28

C. The Application Does Not Seek to Circumvent Proof Gathering Restrictions or Other Policies 28

D. The Requested Discovery Is Narrowly Tailored..... 29

III. Granting Supplemental Discovery Supports International Comity..... 31

CONCLUSION..... 31

**TABLE OF AUTHORITIES**

**Cases**

*AngioDynamics, Inc. v. Biolitec, Inc.*,  
 2010 WL 11541925 (N.D.N.Y. Sept. 17, 2010)..... 17

*Application of Consorcio Ecuatoriano de Telecomunicaciones S.A. v. JAS Forwarding (USA) Inc.*,  
 747 F.3d 1269 ..... 22, 23

*Burns v. Bank of America*,  
 2007 WL 1589437 (S.D.N.Y. June 4, 2007)..... 17

*Culliver v. Ctr. for Toxicology & Env’t Health LLC*,  
 2022 WL 475185 (N.D. Fla. Feb. 16, 2022) ..... 30

*In re Application of Inversiones y Gasolinera Petroleos Venezuela, S. de R.L.*,  
 2011 WL 181311 (S.D. Fla. Jan. 19, 2011) ..... 30

*In re Application of Michael Wilson & Partners*,  
 2009 WL 1193874 (D. Colo. Apr. 30, 2009) ..... 29

*In re Application of Rainsy*,  
 2017 WL 528476 (N.D. Cal. Feb. 9, 2017)..... 26

*In re Byrne*,  
 2023 WL 3203811 (S.D.N.Y. May 2, 2023)..... 25

*In re Clerici*,  
 481 F.3d 1332 (11th Cir. 2007)..... passim

*In re Edelman*,  
 295 F.3d 171 (2d Cir. 2002)..... 22

*In re Ex Parte Application of Petro Welt Trading Ges.m.b.H.*,  
 2018 WL 3020205 (M.D. Fla. June 18, 2018) ..... 8, 16

*In re Furstenberg Fin. SAS*,  
 2017 WL 6560357 (S.D. Fla. Oct. 31, 2017) ..... 30

*In re H.M.B. Ltd.*,  
 2018 WL 4778459 (S.D. Fla. July 2, 2018) ..... 24

*In re Letters Rogatory from Tokyo Dist., Tokyo, Japan*,  
 539 F.2d 1216, (9th Cir. 1976)..... 30

*In re Martinez*,  
 2025 WL 25054-71 (S.D.N.Y. Sept. 2, 2025)..... 25

*In re Matter of Application of Oxus Gold PLC*,  
 2006 WL 2927615 (D.N.J. Oct. 11, 2006)..... 22

*In re Meydan Grp. LLC*,  
 2015 WL 2453757 (D.N.J. May 21, 2015) ..... 25

*In re MTS Bank*,  
 2021 WL 271525 (S.D. Fla. Jan. 27, 2021) ..... 23

*In re Terra Invest, LLC*,  
 2022 WL 18662732 (S.D. Fla. Nov. 7, 2022)..... 22

*In re Victoria, LLC*,  
 2019 WL 11025857 (S.D. Fla. Feb. 27, 2019)..... 23

*In re: Application of Bracha Found.*,  
 663 F. App’x 755 (11th Cir. 2016)..... 23, 27

*Intel Corp. v. Advanced Micro Devices, Inc.*,

542 U.S. 241 (2004) .....	passim
<i>Mees v. Buitter</i> , 793 F.3d 291 (2d Cir. 2015) .....	29
<i>Mussington v. Deborah Brosnan &amp; Assocs., LLC</i> , 708 F. Supp. 3d 1 (D.D.C. 2023) .....	24
<i>Rothe v. Aballi</i> , 2021 WL 4429814 (11th Cir. Sep. 27, 2021) .....	24
<i>Sergeeva v. Tripleton Int’l Ltd.</i> , 834 F.3d 1200 (11th Cir. 2016) .....	19
<i>Weber v. Finker</i> , 554 F.3d 1379 (11th Cir. 2009) .....	23
<i>ZF Auto. U.S., Inc. v. Luxshare, Ltd.</i> , 596 U.S. 619 (2022) .....	31
<b>Statutes</b>	
28 U.S.C. § 1782 .....	passim

**PRELIMINARY STATEMENT**<sup>1</sup>

Yulia Guryeva-Motlokhov (“Applicant”) seeks supplemental discovery under 28 U.S.C. § 1782 concerning the seizure and sale of the superyacht *Alfa Nero* (“*Alfa Nero*” or the “Vessel”) by the Government of Antigua and Barbuda. Evidence uncovered since the Court’s prior order<sup>2</sup> directly implicates Prime Minister Gaston Browne (“Browne”) and other high-ranking Antiguan officials in self-dealing and corruption, amid a scandal that has so far resulted in the dismissal of an Antiguan ambassador and media scrutiny over the *Alfa Nero*’s sale proceeds apparently being unaccounted for in the government of Antigua’s budget.

Since this Court granted Applicant’s original application<sup>3</sup> for discovery, Applicant uncovered evidence that Prime Minister Browne personally negotiated a US \$6 million kickback—disguised as a “consulting fee”—in exchange for selling the *Alfa Nero* at a steeply discounted price. Additional evidence reveals that yacht brokers contemplated listing and selling the Vessel months before the Antiguan government improperly seized it or had even enacted a statute to do so, confirming that the supposed “abandonment” of the Vessel was a pretext for a pre-arranged sale. Those same brokers internally acknowledged the abnormality of the transaction, describing the final price for the *Alfa Nero* sale as “One hell of a deal. Best deal of the century. Ridiculous.” The Antiguan government’s own survey valued the *Alfa Nero* between approximately US \$60 million and US \$105 million and found her “safe and seaworthy,” underscoring that the US \$40 million price was contrary to even the government’s own valuation record.

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<sup>1</sup> This Supplemental Application relates to *In re Gaston Browne Corruption Discovery Application*, ECF No. 1-1, in which Applicant sought documents from Northrop pursuant to § 1782 and in connection with the same Foreign Proceedings that underlie this Supplemental Application. The Court granted the Application. *See* ECF No. 13.

<sup>2</sup> ECF No. 13 (the “Original Order”).

<sup>3</sup> ECF No. 1 (the “Original Application”).

Documents produced after the Court’s prior order, and corroborated by witness accounts, together now show that a Northrop & Johnson Yachts-Ships LLC (“Northrop”) broker circulated an *Alfa Nero* sales brochure to himself in January 2023, months before the Antiguan government created the legal framework it used to seize it; that three days after the Antiguan government enacted the enabling statute at Prime Minister Browne’s urging, the same broker conveyed a €55 million purchase offer to two members of the Prime Minister’s inner circle; that within days, Browne proposed a “Central Agency Agreement” because partnering with Northrop would “give comfort” and lend legitimacy to the Antiguan government’s sale; that the executed sale agreement conferred Antiguan citizenship and passports on the buyer and his family as part of the consideration for buying the *Alfa Nero*; that the Antiguan government’s own surveyor found the Vessel “safe and seaworthy” and valued it between approximately US \$60 million and US \$105 million; and that Prime Minister Browne personally handled the negotiation over both the sale and its artificially low price. Contemporaneous emails from Northrop’s lead broker to Northrop’s President on July 3, 2024 reported “an intense 4 days of negotiation with the prime minister and the client,” followed by an internal message describing the US \$40 million price as “One hell of a deal. Best deal of the century. Ridiculous.” A former senior Antiguan official who served directly under Browne has also confirmed that the Prime Minister requested a specific law firm be paid a US \$6 million consulting fee as part of the negotiations to sell *Alfa Nero*.

Applicant therefore submits this supplemental *ex parte* application (the “Supplemental Application”) under § 1782 seeking an order to obtain targeted discovery from additional entities and individuals with direct knowledge of, and involvement in, the seizure, marketing, and sale of the *Alfa Nero*.<sup>4</sup> This Supplemental Application satisfies the statutory requirements of § 1782:

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<sup>4</sup> Applicant has identified the entity names of the Discovery Subjects based on presently available corporate records.

(1) Applicant is an “interested person”; (2) the request seeks “evidence” (both documentary and testimonial); (3) the discovery sought is “for use” in the Foreign Proceedings; and (4) the Discovery Subjects “reside” or are “found” in this District. The discretionary factors identified in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004) also favor granting supplemental discovery.

## **BACKGROUND**

### **I. Overview of the Seizure**

Applicant is the sole adult beneficiary of the Tyne Trust, which owns the *Alfa Nero* through Flying Dutchman Ltd., a British Virgin Islands company. Original Application at 4–5. Nearly four years ago, the *Alfa Nero* docked in Antigua and Barbuda. In a development Applicant could not have anticipated, this routine stop marked the Vessel’s last voyage under the control of the Trust. *Id.* at 5. Once in port, the yacht was detained by Antiguan authorities, seized under the pretext that it had been “abandoned” (pursuant to newly passed, targeted legislation), and sold personally by Prime Minister Browne in a private sale for substantially below fair market value in a quiet, off-market transaction. *Id.* at 5–7, 9–15.

Applicant has diligently pursued redress for this injury and is seeking justice in multiple foreign courts, including in Antigua, Russia, and the United Arab Emirates (“UAE”) (the “Original Foreign Proceedings”)—*i.e.*, where the seizure occurred, where Applicant is a citizen, and where Applicant resides.<sup>5</sup> *Id.* at 37–38. This Court already granted discovery in this matter on July 16, 2025, and reserved jurisdiction to enter further necessary orders. Original Order at 12. Since then, the Eastern Caribbean Supreme Court has conducted hearings on adducing fresh evidence and

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and information. To the extent discovery reveals that a related entity (such as an operating entity, parent, subsidiary, or related foreign entity) holds the relevant information, Applicant will seek leave from this Court to pursue further discovery as needed.

<sup>5</sup> The Original Foreign Proceedings are described in detail in the Original Application and supporting documents.

reserved decision. Declaration of Matthew Getz (“Getz Decl.”) ¶¶ 7, 10. Recent developments in those matters—including the introduction of evidence uncovered pursuant to the Original Application into the Russian Proceedings—underscore the relevance, necessity, and utility of the discovery authorized and obtained pursuant to this Court’s prior order and justify expanding its scope. *See* Declaration of Denis Golubev (“Golubev Decl.”) ¶¶ 7–12, 20; Getz Decl. ¶¶ 8–9, 12, 21 (Applicant is likewise seeking to introduce the relevant evidence in the Antigua Proceedings).

## **II. The Court’s Previous Order Granting Applicant Discovery Pursuant to § 1782**

In March 2025, Applicant filed an *ex parte* application seeking § 1782 discovery from Northrop—the yacht brokerage and charter firm that brokered the 2024 sale of the *Alfa Nero* and later managed the Vessel’s charter operations. Original Application at 38. This Court granted the Original Application without limitation. Original Order at 12. The Court determined that all four statutory requirements of § 1782 were satisfied, finding that: (1) Applicant is an “interested person” because she “is or will be a litigant” in all three Original Foreign Proceedings; (2) her request sought “evidence;” (3) “for use in a proceeding in a foreign or international tribunal”; and (4) Northrop “resides or is found” in the Southern District of Florida because it “has an office in and does business in” the District. *Id.* at 7–9.

The Court also concluded that each discretionary *Intel* factor weighed in favor of discovery because: (1) Northrop was not a “participant” in the Original Foreign Proceedings, nor was it expected to become one; (2) the relevant foreign courts were “likely to be receptive to such discovery” as might be obtained through the Original Application; (3) the Original Application did not conceal an attempt to circumvent foreign proof-gathering restrictions; and (4) the information sought was not unduly intrusive or burdensome to produce, but rather “relevant and narrowly tailored to the” Original Foreign Proceedings. *Id.* at 9–11. The Court further recognized that

granting discovery advanced the policy underlying § 1782, “which is to encourage international comity,” including by strengthening the ability of district courts to respond to requests for international assistance and by encouraging reciprocal assistance from foreign courts. *Id.* at 11–12.

Courts routinely authorize supplemental discovery pursuant to § 1782. *See, e.g., In re Ex Parte Application of Petro Welt Trading Ges.m.b.H.*, 2018 WL 3020205, at \*1 (M.D. Fla. June 18, 2018) (granting applicant’s first and second supplemental § 1782 requests to obtain discovery from additional discovery subjects). In granting the Original Application, the Court explicitly contemplated further discovery and “reserve[d] jurisdiction to enter further orders that are necessary and proper to enforce this Order.” Original Order at 12. The Supplemental Application, as a natural progression from the discovery previously authorized by the Original Order, falls squarely within that scope. Granting further discovery as Applicant requests would comport with this Court’s previous reasoning and advance the same interests.

### **III. Newly Uncovered Evidence Reveals the Need to Add Discovery Targets**

Since entry of the Original Order, certain discovery has been produced under the Court-authorized subpoena bearing on the negotiation, valuation, marketing, and proceeds of the *Alfa Nero* transaction. This new evidence, together with information gathered from Applicant’s further investigation, points to additional individuals and entities in the District with relevant information.

#### **A. A Witness Account Reveals a Kickback Behind the *Alfa Nero*’s Discounted Price**

Applicant has uncovered new evidence that Prime Minister Browne personally negotiated the sale of the *Alfa Nero* and profited from approving a sale price nearly two thirds below fair market value. A former senior Antiguan official who served directly under Browne interviewed by Applicant’s counsel attested, based on personal knowledge, that Browne solicited and received

a US \$6 million payment in exchange for reducing the Vessel’s sale price. *See* Declaration of Scott Curtis Nielson (“Nielson Decl.”) ¶¶ 8–9. The former Antiguan official indicated that the kickback was ultimately paid to an Antiguan attorney—who is known to act as one of Browne’s personal lawyers—and disguised as “consulting fees.” *Id.* ¶¶ 10–11. This witness’s account, if substantiated, would establish that Browne and members of his inner circle personally profited from the seizure and sale of the *Alfa Nero*.

**B. Antiguan Passports and Broker Foreknowledge Show the Sale’s Unusual Nature**

Discovery obtained under the Original Order shows that the *Alfa Nero* sale was a coordinated, pre-arranged deal marked by extraordinary buyer concessions, early broker activity, and government efforts to manufacture legitimacy.

Documentary evidence now confirms that the *Alfa Nero* was purchased by YM Thunder 1 Shipping Ltd., *id.* ¶ 12(m), an entity owned by Turkish billionaire Ali Riza Yildirim (“Yildirim”). The sales agreement also provided an extraordinary benefit for Yildirim in the form of Antiguan citizenship for Yildirim, his wife Sevim Buse Yildirim, and his son Tarik Bugra Yildirim. *Id.* 12(i), Ex. 10 (Sale and Purchase Agreement for the *Alfa Nero*, dated July 3, 2024), ¶ 26(f). Media reports noted that conferral of Antiguan citizenship is “certainly an unusual perk for buying a superyacht.”<sup>6</sup> Consistent with the unusual nature and policy sensitivity of that benefit, the United States has recently adopted concrete measures directed at Antiguan passports. Effective January 21, 2026, the U.S. Department of State requires otherwise-eligible applicants traveling on Antiguan and Barbudan passports to post a refundable visa bond of US \$5,000, US \$10,000, or US \$15,000 as a condition of receiving a B-1/B-2 visitor visa, with additional entry restrictions

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<sup>6</sup> Neha Tandon Sharma, *The Tiny Nation of Antigua Was So Relieved to Finally Sell the Abandoned Alfa Nero Superyacht, Whose Maintenance Had Been Draining its Finances, that the Caribbean Nation Offered Citizenship as a Thank-You Gift to the Turkish Billionaire Buyer and His Entire Family*, LUXURYLAUNCHES (Apr. 15, 2025), <https://luxurylaunches.com/transport/antigua-is-offering-citizenship-to-alfa-nero-buyers-04152025.php>.

that limit bondholders to designated commercial air ports of entry and bar use of land, sea, charter, or general aviation ports.<sup>7</sup> Shortly before, by Presidential Proclamation on December 16, 2025, the White House imposed a partial suspension of entry for nationals of Antigua and Barbuda as immigrants and as nonimmigrants on B-1, B-2, F, M, and J visas, expressly noting that Antigua and Barbuda “has historically had [CBI] without residency” and citing screening and vetting risks associated with such programs.<sup>8</sup>

Other documents obtained through discovery reveal that brokers were positioning to sell the Vessel before Antigua created the legal framework it needed to seize it. On January 4, 2023—over two months before the Antiguan legislature enacted the relevant statute<sup>9</sup> and nearly three months before the *Alfa Nero* was formally seized—a Northrop broker sent himself a sales brochure for the detained Vessel. *Id.* ¶ 12(b), Ex. ’s 2–3 (Email from Higgins to himself, dated January 4, 2023, including as an attachment a brochure of the *Alfa Nero*). Then, just three days after the law passed, and two days after the Port Manager published notice requiring the *Alfa Nero*’s owner to come forward,<sup>10</sup> Northrop broker Richard Higgins (“Higgins”) emailed two members of Prime Minister Browne’s inner circle with a €55 million offer to buy the Vessel. *Id.* ¶ 12(c), Ex. 4 (Email from Higgins to Johann Hesse and Rufus Gobat, dated March 24, 2023). Those proxies were

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<sup>7</sup> U.S. Dep’t of State, Countries Subject to Visa Bonds (last updated Mar. 18, 2026), <https://travel.state.gov/content/travel/en/News/visas-news/countries-subject-to-visa-bonds.html> (listing “Antigua and Barbuda (January 21, 2026)” and describing \$5,000/\$10,000/\$15,000 bond amounts, DHS Form I-352 requirement, and designated commercial-air ports of entry only).

<sup>8</sup> White House, Proclamation: Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States (Dec. 16, 2025), <https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/> (section 5(b) identifying Antigua and Barbuda; partial suspension for immigrants and for B-1, B-2, F, M, and J visas; noting “Antigua and Barbuda has historically had CBI without residency”); *see also* White House, Fact Sheet: President Donald J. Trump Further Restricts and Limits the Entry of Foreign Nationals to Protect the Security of the United States (Dec. 16, 2025), <https://www.whitehouse.gov/fact-sheets/2025/12/fact-sheet-president-donald-j-trump-further-restricts-and-limits-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/> (summarizing inclusion of Antigua and Barbuda and rationale).

<sup>9</sup> *See* Original Application at 9–10 (discussing the March 20, 2023 amendment to the Port Authority Act).

<sup>10</sup> *See id.* at 10.

Johann Hesse (“Hesse”), at the time Antigua’s Ambassador to the African Union and Browne’s “right hand,” along with developer Rufus Gobat (“Gobat”). *Id.* A few days later, Higgins sent Hesse a follow up with a proposed “Central Agency Agreement” to list the yacht for sale on behalf of the Antiguan government, noting that Northrop’s involvement would help make the sale appear legitimate. *Id.* ¶ 12(f), Ex. 8 (Central Agency Agreement); *see also* Ex. 15 (Email from Patrick Coote (Northrop) to Littlejohn, dated April 4, 2024, discussing edits to the Central Agency Agreement to avoid wording that the Antiguan government was paying a commission). Underscoring the extent to which the Antiguan government relied on Northrop’s reputation to give the transaction an appearance of legitimacy, Sir Ronald Sanders, Antigua’s Ambassador to the United States, wrote to Higgins, Cromwell Littlejohn (“Littlejohn”) (Northrop’s President and Chief Commercial Officer), and others that “[i]t would be advantageous in this matter if Northrop . . . [w]ould issue a public statement setting out its involvement in the sale.” *Id.* ¶ 12(d), Ex. 5 (Email from Sir Ronald Sanders to Littlejohn and others, dated March 20, 2025).

Northrop ultimately paid Hesse, a sitting Antiguan official, and Gobat “introducer” fees to the tune of a half-million U.S. dollars. *Id.* 12(g), Ex. 9 (Email from Higgins to Hesse and Gobat, dated July 8, 2024, asking their bank details for the transfer of fees in the amount of US \$450,000). After that payment became public, Hesse was called to appear before the Cabinet and dismissed from his ambassadorial post in February 2026. *Id.* ¶¶ 7(a), 13. Media reports indicate a nearly identical pattern of misconduct from a few years earlier when a witness account from the Odebrecht scandal attested to a €3 million bribe paid to Browne in exchange for not providing evidence of Odebrecht corruption in Antigua that U.S. and Brazilian authorities were seeking pursuant to Mutual Legal Assistance Treaty requests. That account was deemed credible by the U.S. Department of Justice as it was ultimately featured in the Statement of Facts of the 2016

Odebrecht plea agreement filed in the Eastern District of New York. *Id.* ¶ 22, Ex. 25. Browne responded to those allegations by vigorously asserting his innocence and firing the Antiguan ambassador he had designated to negotiate the bribe.<sup>11</sup> This playbook has obvious parallels to the situation here, where a witness account directly implicates Browne, whose response has been to fire yet another ambassador and sue Applicant’s law firm and lead counsel for defamation.<sup>12</sup>

### C. The Government’s Own Surveyor Valued the *Alfa Nero* Far Above the Sale Price

An Antiguan government commissioned valuation prepared for the sale of the *Alfa Nero* shows that the Vessel was worth far more than the US \$40 million price ultimately approved by Browne, confirming that the parties involved understood the sale price did not reflect the market value. *See id.* ¶ 12(j), Ex. 11 (Tsunami Marine Survey Report, dated March 29, 2023 and titled “Alpha Nero [sic] Condition and Valuation Survey Report”).

The Antigua and Barbuda Maritime Administration retained a surveyor “to inspect and assess the value of [the *Alfa Nero*] . . . for the purpose [of] legal proceedings to transact [its] sale.” *Id.* at 3. The survey concluded that the *Alfa Nero* was “in laid up status but in safe and seaworthy condition”, *id.* at 21, directly contradicting the Antiguan government’s claim that the Vessel’s sale price was depressed because it was in a dangerous state. The Antiguan government naturally, did not disclose this finding to the Antiguan Court in the underlying litigation. In fact, the disclosure was made by Applicant after receiving the survey during discovery. And any negative effect on

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<sup>11</sup> *See, e.g.*, José María Irujo & Joaquín Gil, *Lawyer at center of Odebrecht scandal: “The company bribed more than 1,000 people”*, EL PAÍS (July 28, 2017), [https://english.elpais.com/elpais/2017/07/27/inenglish/1501179676\\_398397.html](https://english.elpais.com/elpais/2017/07/27/inenglish/1501179676_398397.html) (quoting Odebrecht lawyer Rodrigo Tacla’s account that Browne was paid a €3 million bribe to frustrate a request for information issued by Brazilian authorities); Nelson A. King, *Antigua PM fires diplomat amid bribery scandal*, CARIBBEAN LIFE (Jan. 4, 2017), <https://www.caribbeanlife.com/antigua-pm-fires-diplomat-amid-bribery-scandal/> (describing Browne’s strong public denials and indicating that he “fired one low-level diplomat and [] threatened to fire another more senior one” in the wake of the scandal).

<sup>12</sup> *See* Jennelsa Johnson, *PM Browne says legal action imminent against US law firm Boies Schiller Flexner over yacht sale accusation*, THE ANTIGUA OBSERVER (Nov. 27, 2025), <https://antiguaobserver.com/pm-browne-says-legal-action-imminent-against-us-law-firm-boies-schiller-flexner-over-yacht-sale-accusation/>.

the *Alfa Nero*'s fair market value stemming from it being "laid up" (or out of commercial service) at the time came only and as a direct result of the Antiguan government's detention and seizure of the Vessel from its rightful owner, causing independent harm to Applicant.

Even accounting for the Vessel's laid-up status, the Antiguan government survey assessed the *Alfa Nero*'s forced sale or orderly liquidation value as between US \$60 million and US \$105 million, with the latter reflecting expected value unlocked upon return to commercial service. Nielson Decl. ¶ 12(j), Ex. 11 at 21. The final sale price therefore represented a discount of roughly one-third to two-thirds from the Antiguan government's own valuation.

On June 17, 2024, Higgins, the lead broker, emailed this survey to Vuslat Ubogu ("Ubogu")—in-house counsel at the Yildirim Group who negotiated the purchase on Yildirim's behalf—in advance of the Antiguan government's additional attempt at a sale in July 2024. *Id.* ¶ 12(e), Ex. 6. Despite acknowledging the valuation, Higgins told Ubogu that he believed the *Alfa Nero* could be valued *even higher* than the estimated US \$105 million with "some slight refresh on the interior," and described a purchase price in the US \$48–50 million range as an "extremely good deal" and a "[o]nce in a lifetime scenario" from "which the owner can make a small fortune selling on at a later stage in life." *Id.* ¶ 12(k), Ex. 12. The absurdly low sale price is best summarized in Higgins' words in an internal email to Northrop's President on July 3, 2024: "One hell of a deal. Best deal of the century. Ridiculous." *See id.* ¶ 12(l), Ex. 13.

These abnormalities surrounding the transaction align with the witness account by the former Antiguan official that Prime Minister Browne used his influence and control over the Antiguan government to artificially lower the *Alfa Nero*'s sales price in exchange for a kickback. Northrop has not produced any of its communications with Yildirim, leaving unclear when and under what circumstances he expressed interest in the Vessel—though it has produced an email

revealing that the sale was the result of “an intense 4 days of negotiation with the prime minister and the client.” *Id.* ¶ 12(a), Ex. 1. Today, the *Alfa Nero* is back on the market for €88.5 million (approximately US \$105 million), with Northrop and fellow broker Fraser Yachts Florida, Inc. (“Fraser”) handling the listing for Yildirim—positioning the brokers for another round of commission and fees and the buyer for a spectacular return, just as Higgins promised. *See id.* ¶ 21, Ex. 24 (Current Listing for Sale of the *Alfa Nero* by Fraser).

#### **IV. Browne Initiates An Additional Foreign Proceeding in Antigua and Barbuda**

Since the Original Application was granted, and after Applicant began deploying the discovery in the Original Foreign Proceedings, Browne filed a defamation action in Antigua and Barbuda in retaliation (the “Antigua Defamation Action”) (together with the Original Foreign Proceedings, the “Foreign Proceedings”). Browne filed the Antigua Defamation Action on February 13, 2026, in the Eastern Caribbean Supreme Court in Antigua and Barbuda against Applicant’s lead counsel, Martin De Luca, and his law firm, Boies Schiller Flexner LLP (together, the “BSF Respondents”).<sup>13</sup> Declaration of Frank E. Walwyn (“Walwyn Declaration”) ¶ 5. The action arises from public statements De Luca made concerning the seizure, valuation, sale, and proceeds of the superyacht.<sup>14</sup> *Id.* ¶ 7. Browne initially threatened publicly to file a defamation lawsuit against the BSF Respondents in the United States but ultimately settled for filing in Antigua.<sup>15</sup> This is not the first time Browne has threatened or pursued defamation claims against opponents in response to public criticism.<sup>16</sup>

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<sup>13</sup> In the interest of judicial economy and given the substantial factual overlap between this Application and the Antigua Defamation Action, the BSF Respondents join Applicant—solely for purposes of their defense in the Antigua Defamation Action—in requesting the discovery sought herein (collectively, the “Applicants”).

<sup>14</sup> While the case is at an early stage, the BSF Respondents have retained counsel, have begun formulating their legal strategy, and plan to defend the action.

<sup>15</sup> *See* Jennelsa Johnson, *PM Browne says legal action imminent against US law firm Boies Schiller Flexner over yacht sale accusation*, *supra* n.12.

<sup>16</sup> *See, e.g.*, Robert Emmanuel, *Quinn-Williams says placard referenced the ruling administration so PM’s defamation*

Browne alleges that De Luca falsely implied that the yacht was sold at a significantly undervalued price and that millions of dollars from the sale were unaccounted for or were improperly diverted. *Id.* ¶¶ 7–9. Browne denies any financial impropriety and asserts that the sale was lawful, conducted at fair value, and that all proceeds are accounted for. *Id.* ¶ 8. The truth or falsity of the statements at issue therefore turns on objective financial evidence concerning the sale price, the flow of proceeds, and the recipients of funds arising from the sale of the *Alfa Nero*. *Id.* ¶¶ 18, 20.

Antiguan law recognizes several defenses to defamation, including truth of the statements made, fair comment, and qualified privilege. *Id.* ¶ 19. Applicants intend to provide discovery obtained through this Supplemental Application for use in the Antigua Defamation Action, including in support of a defense based on the truth of the challenged statements. *Id.* ¶¶ 16–20. The requested discovery goes directly to the core disputes in the Antigua Defamation Action—including how the *Alfa Nero* was seized and sold, its true market value, whether it was sold at a substantial discount, Prime Minister Browne’s involvement in the transaction and receipt of any benefits associated with it, and what happened to the sale proceeds. *Id.* ¶ 20.

The Eastern Caribbean Supreme Court exercises broad discretion over the admissibility and use of evidence. *Id.* ¶¶ 13–14. Antiguan law further provides mechanisms for admitting evidence obtained in foreign proceedings, as further explained by the BSF Respondents’ counsel in the accompanying declaration. *Id.* ¶¶ 12–15. Applicants therefore reasonably anticipate that discovery obtained here may be fairly and procedurally introduced in the Antigua Defamation Action. *Id.* ¶ 15.

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*threat is meritless*, THE ANTIGUA OBSERVER (Jan. 8, 2024), <https://antiguaobserver.com/quinn-williams-says-placard-referenced-the-ruling-administration-so-pms-defamation-threat-is-meritless/> (“Prime Minister Browne has long used the court system and the threat of defamation lawsuits against opposition members over what he alleged were lies and disinformation being spread against him.”).

**V. The New Discovery Subjects**

Applicant seeks discovery from the following individuals and entities (collectively, the “Discovery Subjects”), whom the aforementioned revelations indicate are likely to possess relevant evidence not captured as part of the original § 1782 discovery. Nielson Decl. ¶¶ 23–30, Ex.’s A–H (Proposed subpoenas to be served on those individuals and entities). The proposed discovery reaches back to February 2022, a date range that corresponds with and reasonably limits discovery to when the *Alfa Nero* made its final voyage under Applicant’s rightful control.

**A. Further Scrutiny of the 2024 Sale: Deposing Northrop and its President**

Applicant needs to know what happened in the room during the “intense 4 days of negotiation with the prime minister and the client.” *Id.* ¶ 12(a), Ex. 1. Applicant therefore seeks a deposition from a corporate representative of Northrop pursuant to Fed. R. Civ. P. 30(b)(6). Northrop brokered the sale of the *Alfa Nero* in 2024 and it is also currently working to help Yildirim find a buyer for the *Alfa Nero* now that he is looking to turn around and sell it for US \$105 million, which ironically is precisely the upper end of the valuation by the Antiguan government’s survey and represents an approximately 250% profit over the sales price that Browne negotiated. *See id.* ¶ 12(j), Ex. 11 at 21. Applicant further seeks documents and an individual deposition pursuant to Fed. R. Civ. P. 30(b)(1) from Cromwell Littlejohn (Northrop’s President and Chief Commercial Officer), who was closely involved in negotiating the 2024 sale of the *Alfa Nero*. Littlejohn is based in Northrop’s Fort Lauderdale office. This narrowly targeted discovery will likely reveal information about Prime Minister Browne’s actions, communications, and personal involvement leading up to the Antiguan government’s seizure and sale of the *Alfa Nero*, as well as the narrative regarding title and authority to conduct that sale. *See, e.g., In re Ex Parte Application of Petro Welt Trading Ges.m.b.H.*, 2018 WL 3020205, at \*1 (granting applicant’s first

and second supplemental § 1782 requests to obtain discovery from additional discovery subjects). Whether Littlejohn professes personal knowledge of these facts (which would be belied by the documents Applicant has already received) is irrelevant to Applicant’s ability to compel his testimony. “Even where . . . a high-ranking corporate officer denies personal knowledge of the issues at hand, this ‘claim . . . is subject to testing by the examining party.’” *AngioDynamics, Inc. v. Biolitec, Inc.*, 2010 WL 11541925, at \*3 (N.D.N.Y. Sept. 17, 2010) (quoting *Burns v. Bank of America*, 2007 WL 1589437, at \*3 (S.D.N.Y. June 4, 2007)).

### **B. The Vessel’s Current Positioning for Resale: Fraser**

Applicant seeks discovery from Fraser, a luxury yacht service provider with “key locations including Fort Lauderdale” that provides “all aspects of yacht sales, yacht charter, yacht management, new build, refit and crew placement.”<sup>17</sup> Fraser is a sister company of Northrop; both are subsidiaries of MarineMax, a Florida based boat dealer.<sup>18</sup> Fraser is working alongside Northrop to help Yildirim market and sell the *Alfa Nero* for US \$100 million—roughly US \$60 million more than what Yildirim paid to the Antigua government in 2024. The decision to relist the *Alfa Nero* at a substantial markup despite the buyer’s intervening charter of the Vessel—a type of use which typically reduces resale value compared to yachts that are used by a single owner—raises questions about what Fraser understood regarding the Vessel’s condition and market value at the time of the Antigua government’s sale, and how that understanding diverges from the justification offered for the discounted price.

Applicant therefore seeks narrowly tailored discovery from Fraser directed to those issues.

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<sup>17</sup> Offices and People, FRASER YACHTS, <https://www.fraseryachts.com/en/offices-and-people/> (last visited Jan. 20, 2026).

<sup>18</sup> See MarineMax Acquires Fraser Worldwide, Press Release, FRASER YACHTS (July 3, 2019), <https://www.fraseryachts.com/en/news-detail/marinemax-acquires-fraser-worldwide/>; Janine St. Denis, *Northrop & Johnson Joins the MarineMax Family*, NORTHROP & JOHNSON (July 1, 2020), <https://www.northropandjohnson.com/news/company-news/northrop-johnson-acquired-by-marinemax>.

The requested materials—including board materials, internal valuations, appraisal reports, maintenance and repair logs, budgets, insurance submissions, and communications with brokers or shipyards—are likely to shed light on the condition, valuation, and market positioning of the *Alfa Nero*. That evidence is directly relevant to whether the US \$40 million sale price<sup>19</sup> reflected the Vessel’s condition and market value, or whether the discount was engineered for reasons unrelated to the Vessel itself.

### C. The Corporate Parent: MarineMax

Applicant seeks discovery from MarineMax, the corporate parent of Northrop and Fraser and one of the world’s largest recreational yacht retailers.<sup>20</sup> MarineMax maintains nine offices in the Southern District of Florida.<sup>21</sup> Though the details are as of yet unclear, the Antiguan government appears to consider MarineMax to be involved in this matter. *See* Nielson Decl. ¶ 12(d), Ex. 5 (Email from the Ambassador of Antigua and Barbuda to the United States to Higgins, Littlejohn, a MarineMax representative, and others indicating that “[i]t would be advantageous in this matter if Northrop . . . would issue a public statement setting out its involvement in the sale[.]”).

As the corporate parent of the brokerage company that facilitated the 2024 transaction, and of both brokerage companies currently marketing the *Alfa Nero* for sale, MarineMax is likely to possess, control, maintain custody of, or be able to obtain relevant information sought by Applicant. And should either subsidiary claim not to have access to documents held by their

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<sup>19</sup> According to a report by the Antiguan government, of US \$40 million in proceeds from the sale of the *Alfa Nero*, US \$5.5 million went towards repaying a loan with the Caribbean Development Bank. Elesa George, ISLAND PRESS BOX, Government Discloses Alfa Nero Sale Proceeds Following Questions Raised by AP Article (Mar. 15, 2025), <https://islandpressbox.com/government-discloses-alfa-nero-sale-proceeds-following-questions-raised-by-ap-article/>.

<sup>20</sup> MarineMax, Inc., Annual Report (Form 10-K) (Nov. 17, 2025), <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001057060/000119312525284680/hzo-20250930.htm>.

<sup>21</sup> View All MarineMax Stores & Find a Boat Dealer Near You, MARINEMAX, <https://www.marinemax.com/stores> (last visited Jan. 20, 2026) (listing locations in Marathon, Islamorada, Key Largo, Miami, Dania Beach, Pompano Beach, West Palm Beach, Jupiter, and Stuart).

related or operating entities, particularly those located outside this District, MarineMax is likely to have broad access to a wide range of such discovery. *See Sergeeva v. Tripleton Int'l Ltd.*, 834 F.3d 1194, 1200 (11th Cir. 2016) (“[W]e agree with the District Court that the location of responsive documents and electronically stored information—to the extent a physical location can be discerned in this digital age—does not establish a *per se* bar to discovery under § 1782. To hold otherwise would categorically restrict the discretion Congress afforded federal courts to allow discovery under § 1782 ‘in accordance with the Federal Rules of Civil Procedure.’” (quoting 28 U.S.C. § 1782(a)).

**D. Browne’s Son and Business Proxy: Gaston Andron Browne III**

Applicant seeks documents and an individual deposition from Browne’s son and proxy, Gaston Andron Browne III (“Andron”) pursuant to Fed. R. Civ. P. 30(b)(1) and 45. Andron graduated from the University of Miami, has a vehicle registered to drive in Florida, and has been issued traffic violations in Florida. *See* Nielson Decl. ¶¶ 15-17 Ex.’s 18–20. According to his LinkedIn profile, Andron works in the “Miami-Fort Lauderdale area.” *Id.* ¶ 16, Ex. 19.

As his father’s proxy and beneficiary, *see* Original Application at 19, Andron is likely to possess critical information about the 2024 sale of the *Alfa Nero* and associated kickback; his father’s business partners, ventures, and real estate holdings (including his extensive properties allegedly located in this District); and the disposition of the sale proceeds and kickback.

**E. Further Scrutiny of the 2023 Attempted Sale: Warren E. Halle**

Applicant seeks discovery from Warren E. Halle (“Halle”), who participated in the auction for the Vessel during the first attempted sale in 2023. Halle is a resident of Jupiter, Florida.<sup>22</sup>

As a bidder during the 2023 attempted sale of the *Alfa Nero*, *see* Ex. 3 to the Original

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<sup>22</sup> Warren Edward Halle, VOTERRECORDS.COM, <https://voterrecords.com/voter/16190912/warren-halle> (last visited Apr. 14, 2026).

Application, Halle likely possesses relevant information on how the attempted sale was structured and carried out by the Antiguan government; Prime Minister Browne’s actions, communications, and personal involvement in the attempted sale; the actions, communications, and personal involvement in the attempted sale of key individuals and proxies of the Antiguan government; the scope and substance of U.S. government involvement in the attempted sale; and the condition, valuation, and sale price of the *Alfa Nero*. Ex. B to the Original Application, ¶¶ 11–12, 15–16. For the avoidance of doubt, Halle is not suspected of any wrongdoing in connection with the *Alfa Nero*.

### **ARGUMENT**

#### **I. The Supplemental Application Satisfies the Statutory Requirements for Discovery**

The Court granted Applicant’s Original Application, finding that each statutory prerequisite was satisfied and that all four discretionary factors favored discovery. Original Order at 7–11. The Court should grant this Supplemental Application for the same reasons. In so doing, it need only reconsider requirements that are at issue or likely to have changed since it reached its previous conclusions. *See, e.g., In re Aso*, 2019 WL 3244151, at \*2 (S.D.N.Y. July 19, 2019) (finding that the court need only reconsider the particular statutory requirements at issue with a supplemental application).

As to the Original Foreign Proceedings, the circumstances underlying the Court’s prior conclusions have not changed. Applicant remains an “interested person” in the Original Foreign Proceedings, and the Supplemental Application seeks “evidence.” *See* Original Order at 7–8. In light of the newly added Discovery Subjects, only the third and fourth requirements warrant further discussion: whether the newly added Discovery Subjects “reside or are found” in this District and whether the requested discovery is “for use.” *See In re Aso*, 2019 WL 3244151, at

\*2.

Because this Supplemental Application also seeks discovery for use in an additional proceeding—the Antigua Defamation Action—and accounts for the addition of the BSF Respondents, Applicants briefly address all four statutory requirements as they relate to that action. Each requirement is satisfied.

#### **A. The Discovery Subjects Reside or Are Found in this District**

Each proposed Discovery Subject “resides or is found” in the Southern District of Florida.<sup>23</sup> *See* 28 U.S.C. § 1782(a); *In re Clerici*, 481 F.3d 1324, 1332 (11th Cir. 2007). Each of the targeted entities—Northrop, Fraser, and MarineMax—has multiple business offices within this District. Northrop is a Florida limited liability company with offices in Fort Lauderdale and Palm Beach, its principal address in Fort Lauderdale, and registered agent in North Palm Beach.<sup>24</sup> Fraser is a Florida corporation with its principal address in Fort Lauderdale and registered agent in North Palm Beach.<sup>25</sup> MarineMax is a publicly-traded company incorporated in Florida and located in Oldsmar, Florida.<sup>26</sup> Florida accounts for more than 50% of MarineMax’s boat sales, which occur out of its 23 Florida locations—including 11 offices within this District.<sup>27</sup> “When a corporation ‘has an office and does business in’ this District, it is found [here] for purposes of § 1782.” *See*

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<sup>23</sup> The Court previously applied this standard and concluded that Northrop “resides or is found” in this District for § 1782 purposes. Original Order at 8–9.

<sup>24</sup> View All Brokerage Offices, NORTHROP & JOHNSON, <https://www.northropandjohnson.com/brokerage-offices> (last visited Jan. 20, 2026).

<sup>25</sup> Detail by Entity Name, Fraser Yachts Florida, Inc., FLA. DEP’T OF STATE, DIV. OF CORPS., <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FRASERYACHTSFLORIDA%20P930000368831&aggregateId=domp-p93000036883-acf9958c-321a-4d85-ba86-c9159aa32ba2&searchTerm=FRASER%20YACHTS%20INC&listNameOrder=FRASERYACHTS%20A94000001090> (last visited Jan. 20, 2026) (identifying principal address as Fort Lauderdale and registered agent in North Palm Beach). *See also* Offices and People, FRASER YACHTS, *supra* n.4.

<sup>26</sup> MarineMax, Inc., Annual Report (Form 10-K) (Nov. 17, 2025), cover page, <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001057060/000119312525284680/hzo-20250930.htm>.

<sup>27</sup> *Id.* at 31; View All MarineMax Stores & Find a Boat Dealer Near You, MARINEMAX, <https://www.marinemax.com/stores> (last visited Jan. 20, 2026).

Original Order at 9 (quoting *Consortio Ecuatoriano*, 747 F.3d at 1269). The final statutory factor is therefore satisfied for Northrop, Fraser, and MarineMax, because they are all Florida entities doing business in the District.

This factor is also satisfied for Littlejohn, Andron, and Halle, the three individual discovery targets. To determine whether a natural person “resides or is found” in the district, courts look to state law for guidance. *See, e.g., In re Terra Invest, LLC*, 2022 WL 18662732, at \*2 (S.D. Fla. Nov. 7, 2022). Domicile is sufficient but not required. *See id.* at \*2–3. Courts typically need not resolve whether an individual formally resides in the district so long as the person is “found” there. *In re Matter of Application of Oxus Gold PLC*, 2006 WL 2927615, at \*5 (D.N.J. Oct. 11, 2006) (emphasis in original) (granting § 1782 discovery of a natural person where that person rented a property within the district for two months out of every year). A non-resident individual may be “found” for § 1782 purposes if served with a subpoena within the district of the court that issued the discovery order, regardless of how long they plan to stay. *See In re Terra Invest, LLC*, 2022 WL 18662732, at \*3 (citing *In re Edelman*, 295 F.3d 171, 180 (2d Cir. 2002)).

Littlejohn is a Northrop employee who works and apparently resides in Fort Lauderdale. He is the President and Chief Commercial Officer at Northrop, based out of the Fort Lauderdale office. *See* Nielson Decl. ¶¶ 19–20, Ex.’s 22–23. Andron, meanwhile, holds himself out as working in this District and doing business here. *See id.* ¶ 16, Ex. 19. Halle resides here.<sup>28</sup> All three therefore satisfy the final statutory requirement that they “reside[] or [be] found” in this District. Thus, the Discovery Subjects meet all statutory requirements.

### **B. The Discovery is “For Use” in the Foreign Proceedings**

Section 1782(a) requires that the evidence sought be “for use in a proceeding in a foreign

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<sup>28</sup> Warren Edward Halle, VOTERRECORDS.COM, <https://voterrecords.com/voter/16190912/warren-halle> (last visited Apr. 14, 2026).

or international tribunal.” *See Intel*, 542 U.S. at 246. The term “tribunal” includes courts and investigative bodies. *Id.* at 249. Moreover, a foreign proceeding need not be “pending” or “imminent,” but only “within reasonable contemplation.” *Id.* at 259. Although “[t]he future proceedings must be more than speculative,” it suffices that the district court has ‘sufficient indication that a proceeding in court would eventuate in which the evidence gathered can be weighed impartially.’” *In re: Application of Bracha Found.*, 663 F. App’x 755, 763 (11th Cir. 2016) (quoting *Application of Consorcio Ecuatoriano de Telecomunicaciones S.A. v. JAS Forwarding (USA) Inc.*, 747 F.3d 1262, 1270 (11th Cir. 2014)).

To be “for use” in such a proceeding, the applicant need not show that such evidence actually will be used, only that such evidence would be discoverable under the Federal Rules of Civil Procedure. *See Weber v. Finker*, 554 F.3d 1379, 1384–85 (11th Cir. 2009) (“Section 1782 does not require that every document discovered be actually used in the foreign proceeding. Quite the opposite. Section 1782 expressly provides that the district court should grant discovery under the Federal Rules of Civil Procedure. Pursuant to Rule 26(b)(1) of the Federal Rules of Civil Procedure, parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense—including the existence, description, nature, custody, condition, and location of any documents.” (cleaned up)).

Here, Applicant seeks evidence for use in the Russian, Antiguan, and contemplated UAE proceedings. The Russian proceedings are before a court—a quintessential tribunal. *See, e.g., In re MTS Bank*, 2021 WL 271525, at \*1–2 (S.D. Fla. Jan. 27, 2021) (allowing discovery for use in Russian bankruptcy proceedings); *In re Victoria, LLC*, 2019 WL 11025857, at \*2 (S.D. Fla. Feb. 27, 2019) (same). Applicant has already used discovery obtained under her Original Application

in the Russian proceedings and intends to use newly discovered evidence in the same manner. Golubev Decl. ¶¶ 9–15.

Similarly, the Antiguan proceedings are currently pending before the Eastern Caribbean Supreme Court (the “High Court”), which is another qualifying foreign tribunal. *See, e.g., In re H.M.B. Ltd.*, 2018 WL 4778459, at \*1 (S.D. Fla. July 2, 2018), *R&R adopted*, 2018 WL 4776382 (S.D. Fla. Aug. 24, 2018) (allowing discovery in an Antiguan proceeding). Applicant’s application to adduce fresh evidence in the Antiguan Proceedings was heard by the High Court on March 30, 2026, at which hearing the Court reserved judgment. Getz Decl. ¶ 7. Counsel for other parties, who had been unable to attend the hearing on March 30, 2026, was subsequently heard by the Court on April 20, 2026. *Id.* Judgment remains reserved on both the application to adduce fresh evidence and the substantive claims. *Id.* The High Court has since indicated it expects to issue a decision on the application to adduce fresh evidence on May 15, 2026. *Id.*

Under Antiguan law and procedure, upon application and approval by the court, Applicant may use discovery obtained through this Supplemental Application before or after judgment, as well as in a contemplated appeal to the Court of Appeal or the Judicial Committee of the Privy Council. *Id.* ¶¶ 11, 13–16; *see also Mussington v. Deborah Brosnan & Assocs., LLC*, 708 F. Supp. 3d 1, 14–15 (D.D.C. 2023) (appeal in an Antiguan proceeding is a qualifying foreign proceeding under § 1782); *Rothe v. Aballi*, 2021 WL 4429814, at \*2 (11th Cir. Sep. 27, 2021) (affirming § 1782 discovery where the “district court concluded that the record ‘convincingly shows that the documents the Magistrate Judge initially ordered produced can be used at the appellate level in the same manner as in the trial-court level,’” and noting that the “scope of § 1782 discovery is not strictly limited to the current posture of the foreign proceeding”); Ex. C to the Original Application, ¶¶ 10–17 (identifying the mechanism Applicant will use to adduce evidence on appeal).

The Antigua Defamation Action is pending before the same High Court. *See* Walwyn Declaration ¶ 5. Prime Minister Browne alleges that statements concerning the seizure and sale of the *Alfa Nero* were false, and the BSF Respondents intend to provide discovery obtained through this Supplemental Application for use in that action, including to support a defense of truth. *Id.* ¶¶ 8–9, 16–20. The truth or falsity of the statements turn on the very issues this discovery targets: how the *Alfa Nero* was seized and sold, its valuation and sale price, Prime Minister Browne’s involvement, and the disposition of the sale proceeds. *Id.*; *see, e.g., In re Martinez*, 2025 WL 2505471, at \*4 (S.D.N.Y. Sept. 2, 2025) (finding defendants in a foreign defamation action met the *de minimis* “for use” burden by showing sought records bore on the truth or falsity of the statements at issue).

The contemplated UAE criminal investigation against Browne also qualifies as a proceeding, as courts have recognized in similar instances. *See In re Byrne*, 2023 WL 3203811, at \*1–2 (S.D.N.Y. May 2, 2023) (denying motion to vacate order granting § 1782 application where the “foreign proceeding for which Petitioner seeks discovery is a ‘Contemplated Criminal Proceeding,’ which Petitioner intends to file in the [UAE] pursuant to Article 269 of the U.A.E. Federal Penal Code”); *see also In re Meydan Grp. LLC*, 2015 WL 2453757, at \*3 (D.N.J. May 21, 2015) (“[T]he discovery sought is for use in two criminal complaints . . . in Dubai . . . arising from [] bribery, corruption, and forgery allegations. This satisfies the foreign tribunal requirement under § 1782.”). As detailed in the declaration of her local counsel, Applicant will be able to present evidence to the UAE Federal Public Prosecution for investigation and initiation of criminal proceedings. *See* Ex. E to the Original Application ¶¶ 8–13; *see also Intel*, 542 U.S. at 243 (“A 1996 amendment clarifies that § 1782(a) covers ‘criminal investigations conducted before formal accusation.’”); *Byrne*, 2023 WL 3203811, at \*5 (noting that “[t]he discovery sought also ‘could be

. . . used to increase Petitioner’s chance of success’ in pursuing criminal charges, which he plans to institute pursuant to UAE criminal statutes” was relevant to the “for use” requirement of § 1782).

The third statutory requirement is therefore satisfied.

**C. The BSF Respondents Are “Interested Persons”**

An “interested person” includes “litigants before foreign or international tribunals, . . . as well as any other person whether he be designated by foreign law or international convention or merely possess a reasonable interest in obtaining the assistance.” *Intel*, 542 U.S. at 256 (citation omitted). The BSF Respondents are defendants in the Antigua Defamation Action and therefore are “interested person[s]” within the meaning of § 1782. *See id.* (noting that there is “no doubt” that litigants are “included among, and may be the most common example of, the ‘interested persons’ who may invoke § 1782.” (cleaned up)); Walwyn Declaration ¶ 5. As defendants in that action, the BSF Respondents have a direct and concrete interest in obtaining evidence for use before a foreign tribunal, including evidence bearing on the truth of the challenged statements. *See, e.g., In re Application of Rainsy*, 2017 WL 528476, at \*3 (N.D. Cal. Feb. 9, 2017) (“Rainsy is a defendant in a defamation proceeding. As a party, he is clearly an interested person.”); Walwyn Declaration ¶¶ 5, 7–9, 16–20. This statutory requirement is therefore satisfied.

**D. The Requested Discovery Seeks Evidence**

Finally, the Supplemental Application seeks evidence. Applicants seek evidence in the form of both the production of “document[s] or other thing[s]” and “testimony or statement[s].” *See* 28 U.S.C. § 1782(a). Here, the proposed subpoenas plainly seek documents and testimony, such as sale records and communications with a discrete set of identified individuals. *See* Nielson Decl. ¶¶ 23–30, Ex.’s A–H. Accordingly, the statutory requirement is satisfied. *See In re Clerici*,

481 F.3d at 1331–32.

## **II. Each of the Discretionary *Intel* Factors Supports Granting Supplemental Discovery**

Where, as here, an application satisfies the statutory requirements, the district court also considers several discretionary factors in determining whether to grant or deny the application. Those factors are: (1) whether the person from whom discovery is sought is a participant in the foreign proceeding; (2) the receptivity of the foreign tribunal to federal court assistance; (3) whether the request conceals an attempt to circumvent foreign proof-gathering restrictions; and (4) whether the request is unduly intrusive or burdensome. *See Intel*, 542 U.S. at 264–65; *In re Clerici*, 481 F.3d at 1334. Because the Original Foreign Proceedings are the same proceedings upon which the Original Application rested, factors (2) and (3) are not at issue. Applicant notes that at this stage in each of the Original Foreign Proceedings, the relevant foreign tribunals are receptive to evidence and mechanisms exist by which new evidence may be injected. *See Golubev Decl.* ¶¶ 17–21, 24; *Getz Decl.* ¶¶ 11–19; Ex. E to the Original Application ¶¶ 8–13, 16.

### **A. The Discovery Subjects Are Not Participants in the Foreign Proceedings**

The first discretionary factor considers whether the discovery subjects are participants in the foreign proceedings. “As the Supreme Court explained in *Intel*, § 1782 discovery is more likely to be justified when the person from whom the discovery is sought is not a participant in the prospective foreign proceeding.” *In re: Application of Bracha Found.*, 663 F. App’x at 764. This is because “nonparticipants in the foreign proceeding may be outside of the foreign tribunal’s jurisdictional reach; hence, their evidence, available in the United States, may be unobtainable absent § 1782(a) aid.” *Intel*, 542 U.S. at 264.

Here, the Discovery Subjects are not parties to the Russian or Antiguan proceedings and are not expected to become participants in them, nor in the contemplated UAE criminal investigation. *See Golubev Decl.* ¶ 23; *Getz Decl.* ¶ 22; *Walwyn Declaration* ¶ 21; Ex. E to the

Original Application ¶ 14. This factor therefore weighs in favor of granting the Supplemental Application.

**B. Receptivity of the Foreign Tribunal**

Under the second *Intel* factor, courts evaluate the receptivity of the foreign tribunal to U.S. federal-court judicial assistance. *Intel*, 542 U.S. at 264. In granting the Original Application, this Court already found that the foreign tribunals presiding over the Original Foreign Proceedings were receptive to such assistance, and nothing has changed to alter that conclusion. *See* Original Order at 10. The same conclusion applies to the Antigua Defamation Action, which is pending before the same Antiguan court addressed in the Original Application—the Eastern Caribbean Supreme Court. *See* Getz Decl. ¶ 5; Walwyn Declaration ¶ 5. As this Court previously held, “it appears that the relevant foreign courts would be receptive to evidence gathered through a § 1782(a) proceeding[.]” Original Order at 10. Because the Antigua Defamation Action is before the same tribunal, that conclusion applies equally here. *See* Getz Decl. ¶ 5; Walwyn Declaration ¶ 5. Accordingly, this factor weighs in favor of granting the Supplemental Application.

**C. The Application Does Not Seek to Circumvent Proof Gathering Restrictions or Other Policies**

Under the third factor, courts consider whether a request “conceals an attempt to circumvent foreign proof-gathering restrictions or other policies[.]” *Intel*, 542 U.S. at 265. In granting the Original Application, this Court concluded that Applicant sought discovery in good faith and did not attempt to circumvent the proof-gathering rules applicable to the Russian, Antiguan, or UAE proceedings, and nothing has changed to alter that determination. *See* Original Application at 10–11. The same analysis applies to the Antigua Defamation Action, which is pending before the same Antiguan Court and is governed by the same procedural and evidentiary framework as the existing Antiguan proceeding. *See* Walwyn Declaration ¶ 5. Because § 1782

does not require exhaustion of foreign discovery mechanisms or that the requested evidence be discoverable under foreign law, and because Antiguan law provides mechanisms for admitting foreign evidence upon application to the court, the Supplemental Application does not seek to circumvent Antiguan proof-gathering restrictions. *See id.* ¶¶ 13–15. Accordingly, the third *Intel* factor weighs in favor of granting discovery.

#### **D. The Requested Discovery Is Narrowly Tailored**

The fourth *Intel* factor evaluates whether the request is “unduly intrusive or burdensome.” *Clerici*, 481 F.3d at 1334 (citing *Intel*, 542 U.S. at 265). Courts assess this factor “by applying the familiar standards of Rule 26 of the Federal Rules of Civil Procedure.” *See Mees v. Buiter*, 793 F.3d 291, 302 (2d Cir. 2015). Under Rule 26, “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense—including the existence, description, nature, custody, condition, and location of any documents.” *In re Application of Michael Wilson & Partners*, 2009 WL 1193874, at \*2 (D. Colo. Apr. 30, 2009) (citations omitted).

Here, the discovery Applicant requests is relevant and narrowly tailored to the Foreign Proceedings. As set forth in the proposed subpoenas and supporting declarations, Applicant seeks documents and information from the Discovery Subjects regarding core issues in the Foreign Proceedings including, for instance, the confiscation and sale of the *Alfa Nero*; the disposition of the sale proceeds; *Alfa Nero*’s condition and fair valuation leading up to the sale; sale negotiations; and the legislative objective of the authorizing statute. Those issues also bear directly on the truth or falsity of the statements at issue in the Antigua Defamation Action, as they shed light on the factual accuracy of DeLuca’s statements regarding the sale price, the negotiation process, Browne’s involvement, and the handling of sale proceeds. Walwyn Declaration ¶¶ 7–9, 16–20. The temporal scope of the requested discovery narrowly targets specific activities relevant to this

case, such as the sale of the *Alfa Nero* (July 2024), Northrop's involvement in brokering that sale (March 2023), and Northrop and Fraser's involvement in the Vessel's current listing.

Courts routinely grant subpoenas seeking documents and deposition testimony from nonparties. *See, e.g., Culliver v. Ctr. for Toxicology & Env't Health LLC*, 2022 WL 475185, at \*1, 7 (N.D. Fla. Feb. 16, 2022) (denying non-party subpoena target's motion to quash and for protective order). In addition, the burden of responding to these subpoenas is minimal, as these are the types of records that the Discovery Subjects typically maintain and produce in the regular course of business. *See, e.g., In re Furstenberg Fin. SAS*, 2017 WL 6560357, at \*1, 6 (S.D. Fla. Oct. 31, 2017) (rejecting contention that "authorized discovery is unduly burdensome" and granting second motion to compel production of business records, deposition testimony, and other communications pursuant to § 1782 in support of contemplated criminal proceedings in Luxembourg even where some requested information falls outside of typical formal business records).

To the extent that the Discovery Subjects contend that these discovery requests are unduly burdensome or intrusive, they are required to make a specific showing to that effect, absent which discovery is appropriate. *See In re Application of Inversiones y Gasolinera Petroleos Venezuela, S. de R.L.*, 2011 WL 181311, at \*13 (S.D. Fla. Jan. 19, 2011) (allowing discovery under § 1782 absent a "specific showing" of burdensome or intrusive nature of request by respondent); *cf. In re Letters Rogatory from Tokyo Dist., Tokyo, Japan*, 539 F.2d 1216, 1219 (9th Cir. 1976) (noting that a subpoenaed party can "raise[] objections and exercise[] their due process rights by motions to quash the subpoena[]"). Accordingly, the fourth *Intel* factor weighs in favor of granting the Supplemental Application. With all four factors supportive of Applicant's position, this Court should grant her request for expanded discovery.

### III. Granting Supplemental Discovery Supports International Comity

Finally, though the Supreme Court has not specifically listed it as a factor in the analysis, this Court has joined other courts in considering international comity, *see* Original Order at 11–12, in recognition of the fact that “the animating purpose of § 1782 is comity: Permitting federal courts to assist foreign and international governmental bodies promotes respect for foreign governments and encourages reciprocal assistance.” *ZF Auto. U.S., Inc. v. Luxshare, Ltd.*, 596 U.S. 619, 632 (2022). As with the Original Application, targeted supplemental discovery from sources located within this District will illuminate critical and dispositive issues pending in the Foreign Proceedings and further § 1782’s central comity purpose.

#### CONCLUSION

WHEREFORE, Applicant asks that this Court:

- (1) Grant discovery pursuant to 28 U.S.C. § 1782; and
- (2) Authorize the issuance of the subpoenas attached to the Declaration of Scott Curtis

Nielson.

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Respectfully submitted,

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