

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CRIMINAL TERM - PART: 59
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THE PEOPLE OF THE STATE OF NEW YORK,

Indict. No.
71543-2023

-against-

CHARGE

DONALD J. TRUMP,

FALSIFYING BUSINESS
RECORDS 1ST DEGREE

DEFENDANT.

JURY TRIAL

----- X

100 Centre Street
New York, New York 10013
April 15, 2024

B E F O R E:

HONORABLE JUAN M. MERCHAN
JUSTICE OF THE SUPREME COURT

A P P E A R A N C E S:

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1 THE CLERK: This is The People of the State of
2 New York, against Donald J. Trump, indictment 71543 of '23.
3 Appearances, starting with the People please.

4 MR. STEINGLASS: Good morning. For the People,
5 ADA Joshua Steinglass, Susan Hoffinger, Matthew Colangelo,
6 Christopher Conroy, Becky Mangold and Katherine Ellis.

7 THE COURT: Good morning.

8 MR. BLANCHE: Good morning, Your Honor. Todd
9 Blanche. I am joined at counsel table by my colleagues
10 Emil Bove, Susan Necheles and Gedalia Stern, and with
11 President Trump. Good morning.

12 THE COURT: Good morning, Mr. Trump. The case is
13 on today for the start of jury selection. There are a
14 couple of loose ends that we need to go over before we can
15 start. I will go through my list, what I have, and I will
16 hear whatever you have as well.

17 Referring first to the Motion for Recusal as
18 filed by the defense. On April 3, 2024, the defendant
19 filed a Motion for Recusal. This Court had denied
20 defendant's first motion in a Decision and Order dated
21 August 11, 2023.

22 The People submitted opposition papers on April
23 5th, and on, or about April 10, 2024, the defendant's
24 motion still pending, the defendant brought an Article 78
25 Petition in the Appellate Division First Department,

1 arguing, among other things, that this Court's refusal to
2 recuse exceeded its authority.

3 The defendant also sought an interim stay of this
4 trial. The application for the stay was denied by a
5 Justice of the Appellate Division. That Article 78
6 Petition is now pending.

7 Thus, in essence, the defendant at this moment
8 has two motions for recusal pending simultaneously in two
9 different courts. For that reason, and because this Court
10 is ultimately bound by the decision of the Appellate
11 Division, this Court will render a short ruling from the
12 bench.

13 Defendant's Motion for Recusal was accompanied by
14 the affirmation of Todd Blanche and contained pages, on
15 pages of screen grafts, articles, social media posts
16 (Check) and a lie, which the defendant claims support the
17 motion.

18 The motion is, essentially, a motion to reargue
19 or renew because it repeated the same claims raised in the
20 defendant's first Motion for Recusal, and for the most
21 part, whatever new exhibits were provided, they existed and
22 were available when the first Motion for Recusal was filed.

23 The defendant generally makes four claims.
24 First, that this Court participated quote, in an interview
25 with the media to discuss this case, closed quote, in

1 violation of the rules governing judicial conduct.

2 The defendant offers no support for the claim
3 that the interview was, in fact, first given to discuss the
4 matter of the People of the State of New York versus Donald
5 Trump rather than to discuss say, the Manhattan Mental
6 Health Court, or the Manhattan Veteran's Treatment Court,
7 to which this Court also presides.

8 The defendant concedes that the Court told the
9 reporter that it would not talk about the Defendant Trump,
10 but he nonetheless refers to several quoted statements in
11 which he claims causes the Court's neutrality to come into
12 question.

13 The statements are: Getting ready for the trial
14 is intense. The Court is quote, striving to make sure that
15 I have done everything I could to be prepared and make sure
16 that we dispense justice. There is no agenda here. We
17 want to follow the law. We want Justice to be done.
18 That's all we want. Those were the allegedly offensive
19 statements.

20 The defendant does not reasonably or logically
21 explain how the statements, which do not mention either
22 party to this action, and which merely emphasize the rule
23 of law, in any way demonstrates a bias or violates
24 defendant's rights.

25 Second, the defendant claims that a 2019 podcast

1 interview with a member of this Court's family disposed
2 statements by this Court that would show bias towards the
3 defendant. The offensive statement from 2019 that defense
4 counsel refers to is, quote, I hate that politicians use
5 Twitter. It's unprofessional. That's not how a politician
6 should behave, closed quote.

7 Again, it is not clear to this Court how that
8 statement demonstrates bias in favor of, or against either
9 party, or how under the law it would constitute grounds for
10 recusal.

11 Third, defendant claims that a family member of
12 this Court had allegedly criticized defendant in her
13 Twitter account. In support of this claim, defense counsel
14 includes several screen drafts of Twitter posts from March
15 2024, which appear to be critical of the defendant. The
16 defendant suggests that the quotes were made by a member of
17 this Court's family. This, in spite of acknowledging that
18 the Office of Court Administration, made a statement prior
19 to the filing of the motion explaining that the account did
20 not belong to a family member at the time the posts were
21 made.

22 And fourth, the defendant generally alleges that
23 if family members are employed with a firm that does, among
24 other things, consulting work with political candidates and
25 nonprofit organizations, make this Court impossibly

1 compromised because the family member presumably stands to
2 benefit from this Court's rulings, and, therefore, the
3 argument goes, this Court stands to benefit as well.

4 The People in their opposition papers, summarized
5 defendants argument, well, because they would likely be
6 repeated before the Appellate Division when the Article 78
7 motion is argued, there is no need to discuss them in
8 detail now.

9 It is the opinion of this Court that referring to
10 a series of inferences, innuendos and unsupported
11 speculation the defendant relies upon to get from Point A,
12 regarding this Court's family member, to Point Z, that this
13 Court must recuse and that failure to do so is a violation
14 of defendant's rights, to say that these claims are
15 attenuated is an understatement. The defendant has failed
16 to provide evidence that this Court has quote, any direct,
17 personal, substantial, or peculiarity interest in reaching
18 a particular conclusion, closed quote.

19 People V Alamar, 93 New York 2d, 239 at 246,
20 1999.

21 As the Advisory Committee on Judiciary Ethics
22 found in its opinion on May 4, 2023, the matter presently
23 before this Court, quote, does not involve either the
24 Judge's relative, or the relative's business, or that
25 directly or indirectly, closed quote; and further, because

1 a quote, relative's independent political activities do not
2 provide a reasonable basis to question the Judge's
3 impartiality, closed quote, there is no basis for recusal.
4 See Ethics Opinion, 23 54.

5 Lastly, even if the company in question were
6 involved in fundraising campaigns mentioning this case, it
7 would still be no basis for recusal because, quote, the
8 Judge's relatives remain free to engage in their own bona
9 fide, independent political activities, closed quote.

10 Again, see the opinion of the Ethics Committee,
11 23 54.

12 Defendant's reliance on Judiciary Law Section 14
13 is simply misplaced because that section of law is
14 inapplicable to the facts here. Recusal is left for the
15 sound discretion of this Court.

16 As this Court previously noted in denying
17 defendant's first Motion for Recusal, quote, a Judge is as
18 much obligated not to recuse himself, when it is not called
19 for as he is obligated to when it is.

20 In re: Drexel Burnham Lambert, Incorporated, 861
21 Fed 2d, 1307 at 1312, Second Circuit, 1988.

22 For these reasons, defendant's second Motion for
23 Recusal is denied. The Court will not address this matter
24 further pending the decision of the Appellate Division on
25 the defendant's Article 78.

1 Moving on to the next issue.

2 On April 9, defendant filed a pre-motion letter
3 seeking, one, clarification of the trial schedule, and two,
4 leave to request two, one-day adjournments during the
5 trial. The defendant indicates that the Court should treat
6 the pre-motion letter as a motion itself, if leave is
7 granted. Leave is granted.

8 Regarding clarification of the trial schedule, as
9 previously noted, there will be not proceedings on Monday,
10 April 29th. Further, trial will not be conducted on
11 Wednesdays. The Court presides over its weekly calendar.

12 Barring unforeseen delays, that will be the plan
13 for the duration of the trial. If, however, there are
14 excessive delays, and it appears that the trial might run
15 longer than expected, in fairness to the sworn jurors, the
16 Court may convene the trial on some Wednesday afternoons.
17 Regarding the Passover holiday, which this year commences
18 before sun down on Monday, April 22nd and ends after night
19 fall on Tuesday April 20th, this court has previously
20 stated that there will be no proceedings on any day, or
21 time that conflicts with the religious observance of any
22 sworn juror.

23 The Court contemplates that at most, and as
24 indicated in counsel's pre-motion letter, this would
25 include the first two days of Passover, Monday and Tuesday,

1 April 22nd and 23rd, and the last two days of Passover, a
2 Monday and Tuesday, April 29th and the 30th.

3 Counsel has indicated that there are members of
4 the defense team who also observe Passover, and expresses
5 his understanding that the Court will recess the first two
6 days and the last two days of Passover regardless of juror
7 needs. That understanding is mistaken.

8 The Court's assurance to prospective jurors that
9 observe the Passover holiday will not preclude them from
10 serving as jurors in this trial is a measure taken by the
11 Court to address Mr. Blanche's concerns that the members of
12 the Jewish community might not be represented on a jury
13 otherwise.

14 This Court respects and acknowledges counsel's
15 religious observance and has previously indicated there
16 will be no proceedings on Monday the 29th. Additionally,
17 if requested by counsel, the Court will work through lunch
18 until 2:00 p.m. on Monday and Tuesday, April 22nd and 23rd,
19 and Tuesday, April 30th, to allow counsel sufficient time
20 to arrive at their holiday destinations before sundown,
21 which on April 22nd occurs at 7:43 p.m.

22 Finally, if any attorney wishes to be excused the
23 entirety of any particular day, the Court will most
24 certainly permit their absence.

25 Regarding counsel's request that the Court

1 adjourn on Friday, May 17th for Mr. Trump to attend his
2 son's high school graduation and Friday June 3rd to allow a
3 member of the defense team to attend their son's
4 graduation, I cannot rule on those two requests at this
5 time. It really depends on how we are doing on time and
6 where we are in the trial.

7 If everything is going according to schedule
8 without unnecessary delays, then I am sure we will be able
9 to adjourn for one or both of those days, but if we are
10 running behind schedule, we will not be able to.

11 Third matter, on Friday, April 12th, Mr. Blanche
12 filed a pre-motion letter containing two issues related to
13 jury selection.

14 First, defendant removes his request that the
15 court employ what he calls a hybrid system of jury
16 selection, which delineates between potential jurors who
17 conclude they cannot be fair and impartial and potential
18 jurors who conclude they are otherwise unable to serve.

19 Second, defendant alleges that there is asymmetry
20 in the questionnaire and demands that defense counsel be
21 permitted leeway to probe affiliations with certain groups.

22 Now, People, did you have an opportunity to
23 respond to that?

24 MR. STEINGLASS: Yes, Judge. We sent counsel a
25 response on Saturday. We couldn't file that. We filed it

1 this morning and I have a copy for the Court.

2 THE COURT: If it is brief, you can summarize
3 your argument.

4 MR. STEINGLASS: Sure. So, essentially, with
5 regard to the first issue, there is no legal barrier to the
6 Court's planned procedure to dismiss prospective jurors who
7 self-identify as being unable to serve because they can't
8 be fair and impartial, or for other reasons. This has been
9 repeatedly upheld and there is some case law cited in the
10 motion that we handed up.

11 Once a juror has made it clear that they are
12 unable to serve, additional inquiry into the details of
13 that inability to serve would be repetition, or irrelevant.

14 Another point that defense counsel has made in
15 their letter is that he would prefer a different procedure
16 in order to gather evidence that would support a renewed
17 motion for a venue transfer application.

18 Although the defendant is free to rely on the
19 record of voir dire to make such a motion, the purpose is
20 not to allow the defense to cultivate evidence to support
21 that motion, but rather to select a fair and impartial
22 jury.

23 So the Court is under no obligation to aide the
24 defense in their endeavor to cultivate such a challenge.

25 In the alternative, as we note in the footnote,

1 the Court could accommodate defendant's concerns by
2 conducting its pre-voir dire process in two stages.

3 First, asking whether jurors are unable to serve
4 due to, for example, religious observances, job
5 obligations, prepaid travel, or family arrangements as
6 defendant suggests; and then second, after doing that,
7 asking whether the remaining prospective jurors could be
8 fair and impartial.

9 So as long as this procedure does not require
10 individual questioning of prospective jurors, a
11 two-question process would not inordinately delay jury
12 selection.

13 The defendant's second point about questions 29A
14 being improper is just wrong. The question asks whether
15 jurors ever worked or volunteered for the defendant's
16 campaign, the defendant's presidential administration, or
17 some other political entity affiliated with the defendant.

18 For the reasons that we lay out, there is no
19 asymmetry. The defendant is not prejudiced and his 11th
20 hour request to modify the jury questionnaire should be
21 rejected. Thank you.

22 THE COURT: Thank you.

23 MR. BLANCHE: May I very briefly, Your Honor?

24 THE COURT: You already wrote the pre-motion
25 letter and the People responded to it, right?

1 MR. BLANCHE: Yes.

2 THE COURT: So you want to reply to their
3 response. Go ahead.

4 MR. BLANCHE: The hybrid proposal that the People
5 just talked about in the end that's in the footnote of the
6 reply is, in essence, our request.

7 First, I want to make sure that that was clear to
8 the Court. That we are both proposing the same potential
9 hybrid approach to asking two separate questions of the
10 jurors before they are just excused.

11 And then with respect to the second issue, our
12 concern, Your Honor, is the description of anti-Trump
13 without any defining characteristics of what that means,
14 and so, what we are -- we understand the Court's decision
15 with respect to whether somebody is a Democrat, or who they
16 voted for, very much so, that that's different in kind than
17 saying have you gone to an event in favor of President
18 Trump, or as a candidate, or something else and the
19 contrary -- the other question just, anti-Trump, which is,
20 in our view, we feel like maybe a difficult description to
21 understand what it means. I wanted to make sure I made
22 clear what our issue is.

23 THE COURT: Okay. Thank you. Since both sides
24 are in agreement with the proposed hybrid, I must have
25 misunderstood. The first time it was offered, I understood

1 something different.

2 If all you are suggesting is that we excuse those
3 in the audience by asking two separate questions, that's
4 fine. That won't delay anything. You can go ahead and do
5 that.

6 Turning to the second request, the defendant in
7 the second request tries to expand the scope of jury
8 selection to identify any prospective juror who do or do
9 not like Mr. Trump. As previously stated several times,
10 that is not relevant.

11 Likewise, the defendant asked for leeway to
12 expand what he describes as an asymmetry in the
13 questionnaire. There is no asymmetry in the questionnaire
14 when even through the lens of what we are trying to
15 accomplish during jury selection, and that is whether a
16 prospective juror is pro-Trump, or anti-Trump is relevant,
17 and that question is asked in various forms several times.

18 Likewise, the questionnaire as a whole consisting
19 of 42 questions and numerous sub-questions is already by
20 far the most exhaustive questionnaire this Court has ever
21 used. There will be no doubt, whatsoever, how a
22 prospective juror feels about Mr. Trump, the District
23 Attorney, and this case by the time they get done answering
24 the questionnaire.

25 Whatever lingering doubts counsel may have at

1 that point will certainly be addressed when you conduct
2 your voir dire. Your request for further leeway to probe
3 areas not addressed on the questionnaire is denied.

4 I have two other brief matters. I will go into
5 one right now.

6 Mr. Blanche, would you like me to inform the
7 prospective jurors that if your client does not testify
8 that is not a factor for which any inference unfavorable to
9 the defendant may be drawn?

10 MR. BLANCHE: Yes, Your Honor.

11 THE COURT: I will leave my last two issues until
12 I hear from you. One of those matters is my jury trial
13 checklist. I just go over how I like to do things and
14 revolve any last minute issues.

15 If there is anything you would like to bring up
16 at this time, please go ahead.

17 MR. STEINGLASS: Thank you, Judge. There are a
18 number of issues from the motion in limine that the Court
19 held required offers of proof, or otherwise need
20 clarification. We are prepared to address those at this
21 point if the Court wishes.

22 THE COURT: Yes, please.

23 MR. STEINGLASS: The Court has held that
24 testimony concerning the August 2015 meeting in Trump Tower
25 among Mr. Trump, Michael Cohen and David Pecker is

1 admissible, provided, of course, that the People lay a
2 proper foundation and that the testimony comports with
3 evidentiary standards.

4 However, the Court reserved decision on the
5 specific issue of whether the People will be able to elicit
6 testimony about the agreement to publish flattering stories
7 about the defendant and also publish negative stories about
8 his opponents. The Court held that the People will be
9 required to make an offer of proof as to whether this
10 information is, why it is -- why it is admissible as
11 Molineux evidence and how its probative value outweighs its
12 prejudicial effect.

13 As you know from the Grand Jury testimony and our
14 moving papers, at that meeting David Pecker, Michael Cohen
15 and Mr. Trump, conspired to influence the 2016 election.

16 There were three related components to the
17 arrangement struck at that meeting. The first is that
18 David Pecker and AMI would serve as the eyes and ears of
19 the campaign to use their network of sources to gather
20 information that could be harmful to the Trump candidacy
21 and report that information to Michael Cohen so that the
22 campaign could prevent such information from ever seeing
23 the light of day.

24 That aspect of the arrangement is what led
25 directly to the suppression of the Dino Sajudin story, the

1 Karen McDougal and the Stormy Daniels story, and the Court
2 has already authorized eliciting testimony about this.

3 The second component of that agreement from Trump
4 Tower in August of 2015, was the agreement to publish
5 flattering stories about Mr. Trump; and the third is an
6 agreement to publish negative stories about Mr. Trump's
7 opponents.

8 To make this point, the People intend to offer
9 the following exhibits into evidence assuming, of course,
10 the Court permits us to do so.

11 Is Your Honor able to see what we are displaying?

12 THE COURT: I am, yes.

13 MR. STEINGLASS: So this is People's 152 and it
14 contains a series of National Enquirer headlines installing
15 Mr. Trump's virtues. The CEO of AMI, then the parent
16 company of the National Enquirer, will testify that he ran
17 these stories to bolster Mr. Trump's campaign.

18 We expect elicit testimony that many of the
19 headlines, and the stories behind them, were shown to
20 Mr. Trump before they were published so that he could
21 approve, reject or suggest changes.

22 Second, the People intend, with permission of
23 course, to introduce three exhibits each containing a
24 series of National Enquirer headlines attacking Mr. Trump's
25 opponents in the primaries, timed perfectly to achieve

1 maximum impact. This is People's 153A, a series of
2 headlines attacking Dr. Ben Carson by accusing him of
3 medical malpractice. There will be evidence that Mr. Trump
4 told people at AMI that he was particularly pleased with
5 these articles.

6 This is People's 153B, a series of headlines
7 attacking Ted Cruz by accusing him of infidelities and
8 having a family connection to JFK's assassin.

9 And, finally, People's Exhibit, 153C, several
10 headlines attacking Marco Rubio by accusing him of drug
11 abuse and involvement in a sex scandal.

12 Now, we do not intend to ask a long litany of
13 questions about these or to even admit the underlying
14 stories themselves. However, the People expect to elicit
15 evidence that the National Enquirer ran these stories
16 because of the agreements reached at the Trump Tower
17 meeting and in furtherance of Mr. Trump's campaign.

18 All three components of the Trump Tower
19 arrangement, were made to advance the goal of boosting the
20 Trump candidacy. These exhibits are the concrete
21 manifestation of the deals struck between the defendant and
22 AMI to put their thumbs on the scale. The entire point of
23 the Trump Tower meeting was to control the flow of
24 information that reached the electorate, to accentuate the
25 positive, hide the negative, and exaggerate information

1 that would be harmful to Mr. Trump's opponents.

2 So as set forth in our motion in limine, we
3 believe this evidence is admissible both as *res gestae*,
4 which the Court did not decide, and *Molineux*, which in and
5 of itself the defendant's endeavor to push certain stories
6 may not be misconduct of the type that *Molineux*
7 contemplates.

8 A particular action to the undertaking in
9 furtherance of an unlawful conspiracy, even when the act
10 itself is not unlawful.

11 For example, three people decide to rob a bank
12 and one of them rents a getaway car, the act of renting a
13 getaway car itself is not in and of itself illegal, but it
14 is an overt act in furtherance of an unlawful conspiracy.
15 And the evidence of that example would be relevant to
16 establish the intent of the co-conspirators.

17 So, here to the flattering stories about
18 Mr. Trump, and the negative stories about his opponents,
19 were undertaken in furtherance of the conspiracy forged at
20 the Trump Tower meeting, and as such, the Court should
21 admit this evidence at trial.

22 There is virtually no conceivable prejudice in
23 the headlines that the defendant himself commissioned and
24 which were printed in service of his own wishes, and any
25 conceivable prejudice is far outweighed by the probative

1 value.

2 There is absolutely no danger from this evidence
3 that the jury would draw some kind of propensity inference.
4 And even if the Court does believe this aspect of the
5 agreement to contain misconduct, any theoretical prejudice
6 can be mitigated by a limiting instruction.

7 I have several more issues to clarify. I don't
8 know if you want me to do them all.

9 THE COURT: Let me here from Mr. Blanche.

10 MR. BLANCHE: Thank you. Thank you, Your Honor.

11 In short, this evidence would be -- would do
12 nothing but confuse the jury about the actual crime charged
13 for several reasons.

14 For one, the fact that a newspaper publisher
15 meets with a candidate and the candidate's team to talk
16 about the types of articles that they are going to publish,
17 the timing of the release of editorials and articles that
18 are going to be published, not only is there nothing
19 illegal about that, or improper, it happens all the time.
20 It happens in candidacies all over this country. And so,
21 there is nothing that -- the jury can't learn anything from
22 that that they wouldn't already know from what happens all
23 the time.

24 And second, there is no evidence that the
25 sampling that the People have selected from the 2016

1 election is in any way complete or full.

2 They have handpicked certain articles that
3 presumably are negative towards a candidate that was
4 running at the time against President Trump.

5 To what end?

6 There is no evidence that they can authenticate
7 that those are all the articles, for example, that were
8 negative or positive towards candidates. They are just
9 hand picking them and looking to say, see we told you there
10 was an agreement between AMI and Mr. Pecker and Mr. Trump.

11 He is not charged with any of that conduct. That
12 has nothing to do with the charged conduct in this case.

13 So, when the People say there is no risk of
14 prejudice or unfair prejudice and there is some level of
15 probative value, the opposite is true. There is a very
16 high risk of prejudice.

17 This has nothing to do with the charged conduct.
18 This has nothing to do with any of the counts charged in
19 the indictment and it becomes a side show. Whether there
20 is anything proper or improper about Mr. Pecker and
21 President Trump meeting to talk about the upcoming
22 election, that's not a crime. There is nothing wrong with
23 that happening.

24 MR. STEINGLASS: May I, briefly?

25 THE COURT: No.

1 MR. STEINGLASS: No?

2 THE COURT: No. So, I am glad to hear that the
3 defense agrees that there is nothing illegal or improper
4 about what the People seek to introduce and that it happens
5 all the time. But, basically, it deals with the prejudice
6 issue for the most part. If defense counsel is in
7 agreement it's not illegal, it's not improper and it
8 happens all the time, there is no reason not to allow it
9 in.

10 I am not going to allow it in as res gestae. I
11 think it's very difficult to make the connection that when
12 this meeting was conducted on such a such date and the
13 scheme was put together, that they envisioned somewhere
14 down the road that there would be 34 falsifications of
15 business records. It seems that is much too attenuated.

16 However, I am going to allow it in as Molineux
17 evidence because, as you know, under Molineux/Ventimiglia
18 the Court is required to conduct a two-part analysis. For
19 purposes of this ruling, I will consider the arguments that
20 we just had as the Ventimiglia Hearing.

21 The Court must first determine what the issue --
22 a party must first identify what the issue is that will
23 demonstrate more than mere criminal propensity for which it
24 was held in -- I agree that the People have demonstrated
25 that being able to establish that there was this

1 understanding, and I want to stay away from the use of the
2 word, conspiracy, that that wasn't charged in this case,
3 that there was an understanding that certain things would
4 be done, and certain things would not be done in
5 furtherance of the scope and I believe that this is
6 necessary to complete the narrative of what took place.

7 The People have represented that their witnesses
8 will be able to lay the proper foundation for its
9 introduction. And so, I am satisfied that the probative
10 value exceeds any prejudicial value, if any. So I will
11 allow it in as Molineux evidence.

12 MR. STEINGLASS: Thank you, Judge.

13 May I move on to the next one?

14 THE COURT: Please, yes.

15 MR. STEINGLASS: The Court held that testimony
16 from or regarding Dino Sajudin and Karen McDougal may be
17 introduced for a variety of reasons that we don't need to
18 revisit. The Court went on to add that absent a
19 satisfactory offer of proof, this testimony will be limited
20 to the fact of, and may not explore the underlying details
21 of what allegedly transpired between those individuals and
22 the defendant. Your Honor added that the quote, exact
23 limitations of this testimony will be discussed in court
24 prior to jury selection.

25 Particularly as to Karen McDougal, there are some

1 salacious details that we have no intention of eliciting
2 unless the door is somehow opened. However, so that we
3 don't run afoul of the Court's order, we wish to provide
4 that offer of proof to ensure that we remain within the
5 bounds of your ruling.

6 For Dino Sajudin, we intend to elicit that Dino
7 Sajudin was a doormen in Trump Tower who claimed that the
8 defendant had an illegitimate daughter with a housekeeper
9 who worked in his apartment.

10 We intend to clarify that after a non-disclosure
11 agreement was consummated between AMI and Mr. Sajudin, that
12 AMI was unable to confirm the accuracy of that story and
13 released Mr. Sajudin from the MDA; but most significantly,
14 they didn't release him until after the election of 2016.

15 For Karen McDougal, we intend with the Court's
16 permission, to elicit evidence that Karen McDougal is a
17 former Playboy model who claimed to have had a romantic and
18 sexual relationship with Mr. Trump that lasted nearly a
19 year, including while Mr. Trump's wife, Melania, was
20 pregnant with their child.

21 We intend to elicit that unlike the Dino Sajudin
22 story, the editor of the National Enquirer believed this
23 story to be true and told as much to the CEO. We would
24 also elicit the fact that Karen McDougal's contact
25 information was stored in the record contacts at the Trump

1 Organization.

2 Again, we have no intention of eliciting the
3 salacious details of the **affair**, to describe the sexual
4 acts or locals of their liaisons unless, of course, the
5 defendant opens the door.

6 However, the fact that this relationship occurred
7 during the defendant wife's pregnancy, and after the birth
8 of their child, speaks directly to the extent to which the
9 Defendant believed the story would be damaging to his
10 campaign.

11 Similarly, the fact that folks at AMI credited
12 Karen McDougal's account, speaks directly to the lengths
13 they were willing to go along with the defendant to
14 suppress that story.

15 That's it for this application.

16 THE COURT: Thank you.

17 MR. BLANCHE: Yes, Judge, we continue to object
18 to any of this testimony coming in. I mean, this
19 especially with respect to Ms. McDougal, the only value is
20 to try to embarrass President Trump, right, because if you
21 do get into the details of the arrangement that AMI entered
22 into with Ms. McDougal, they are different in kind in many
23 ways from the ultimate non-disclosure agreement that Mr.
24 Cohen entered into with Ms. Clifford, which is why we are
25 here today.

1 There is no scenario under which the jury won't
2 take a very negative, and inappropriately negative, view of
3 President Trump given these unproven allegations that, as
4 the People say, will not be proven.

5 So what is the jury to do with that information?

6 You have a situation where AMI, not Michael
7 Cohen, not President Trump, entered into a contractual
8 arrangement with Ms. McDougal. Very different, very
9 different from the non-disclosure agreement, which is why
10 we are in this courtroom today.

11 And so, the risk of prejudice, and the risk of
12 the jury reaching a conclusion about the charges in this
13 case, because of these salacious details about a completely
14 different situation not only factual, but different
15 situation in the way AMI handled it compared to the way
16 Michael Cohen handled the situation with Ms. Clifford, it's
17 -- there is no probative value. And if there is a little
18 probative value the risk of unfair prejudice is through the
19 roof.

20 This is just too embarrass President Trump. It
21 has nothing to do with the trial. He is not charged with
22 misconduct. There is no reason that the People can't get
23 in the evidence that we just talked about a moment ago
24 through Mr. Pecker, around an arrangement and around the
25 desire of President Trump as a candidate and AMI to work

1 together and have positive stories and to keep an eye out
2 for negative stories.

3 Interjecting this Ms. McDougal story into this
4 narrative, Your Honor, not only does it create a side
5 trial, but it is a side trial that we can't do anything
6 about.

7 He is not charged with this. There is no illegal
8 conduct alleged out of this arrangement. It is literally
9 just salacious without any value.

10 THE COURT: Anything else?

11 MR. STEINGLASS: Your Honor, has already
12 determined that the Karen McDougal story is intimately
13 involved with this story and Mr. Blanche suggesting that
14 Mr. Trump had nothing to do with securing the rights to
15 Karen McDougal's story and preventing them from being
16 leaked is just flat out wrong.

17 THE COURT: My ruling on the Motions in Limine
18 remain. I am satisfied with the offer of proof that the
19 People have offered as to what background you will go into,
20 the extent of your examination and the extent you will go
21 into the matter.

22 There is one area, though, that I don't agree
23 with at this point and that is bringing up that the
24 defendant's wife was pregnant with child at the time and
25 that this went on while she was pregnant and even after she

1 gave birth.

2 At this moment, I don't think -- I think that the
3 prejudicial value of that definitely exceeds any probative
4 value. As you know, we never know how evidence will come
5 in, what will happen on cross-examination and whether any
6 doors will be open; but for purposes of why we are here
7 today, at this moment I don't believe that that is
8 necessary.

9 Anything else?

10 MR. STEINGLASS: Yes. I want to talk about the
11 Access Hollywood tape. The court has ruled that the Access
12 Hollywood tape is relevant to the critical issues in this
13 case and falls under several Molineux exceptions. However,
14 the Court struck a compromise that precludes the People
15 from playing the tape, but permits testimony about the tape
16 and its impact on the campaign.

17 Specifically, the Court wrote that the People can
18 elicit testimony about a videotaped interview which
19 surfaced on October 7, 2016, that contained comments of a
20 sexual nature in which the defendant feared could hurt his
21 presidential aspirations.

22 First, we are trying to clarify whether we are
23 bound by that precise language, or whether we can provide a
24 more fulsome and accurate description.

25 As the Court is aware from our papers, the Access

1 Hollywood tape that was released to the public on October
2 7, 2016, depicts Mr. Trump bragging about grabbing women's
3 genitals without their permission. That is more than just
4 comments of a sexual nature. That is an admission to or at
5 least the description of a sexual assault.

6 The video sent the campaign into a tailspin
7 precisely because the comments that he made were so
8 incendiary. We expect to elicit testimony, for example,
9 that preparations for the presidential debate, which was
10 scheduled for two days later on October 9th, were
11 interrupted and eclipsed by the need to do damage control
12 regarding the Access Hollywood tape.

13 So, first, we request to be able to elicit
14 testimony that describes this tape more accurately.

15 Second, as we are all aware because of the
16 defendant's request for such materials, we all obtained
17 some new documents from the Southern District about a month
18 ago. And as we noted on March 25th, many of these
19 documents are, actually, quite helpful to the People.

20 I am displaying, hopefully you can see it, Your
21 Honor, what hopefully will become People's Exhibit 218 at
22 this trial. It is an email chain where the initial email
23 is from David Fahrenthold of the Washington Post to Hope
24 Hicks, Mr. Trump's campaign communication director at the
25 time, and the first portion of this email is sent less than

1 three hours before the Access Hollywood tape is released by
2 the Washington Post and the email includes a transcript of
3 the Access Hollywood tape.

4 The email asks Ms. Hicks several questions
5 relating to the tape, including whether it was, in fact,
6 Mr. Trump's voice on the Access Hollywood tape.

7 She then forwards the email to other campaign
8 officials including Steve Bannon and Kellyanne Conway
9 suggesting that their response should be to deny, deny,
10 deny; but the deny strategy was abandoned after the tape
11 came out and it literally became impossible for the
12 defendant to challenge its authenticity.

13 Now, it appears that Steve Bannon forwards this
14 email chain to Michael Cohen who writes, after the video
15 had been released publicly, it's all over the place. Who's
16 doing damage control here.

17 So, in our view this email is powerful evidence
18 of the campaign's a reaction to the incendiary language
19 contained in the Access Hollywood video and it explains why
20 the campaign and Mr. Trump himself were so eager to explain
21 away the words that he used on that tape as locker room
22 talk.

23 It also explains why Mr. Trump was so determined
24 to prevent Ms. Daniels' account of their sexual encounter
25 from becoming public because Ms. Daniels was living proof

1 of the fact that the defendant wasn't all talk.

2 Another piece of evidence we seek to admit is the
3 clip from the E. Jean Carroll deposition in which the
4 defendant references the Access Hollywood tape. You should
5 have the transcript, which is Exhibit 404D.

6 Question, and you say, and, again, this has
7 become very famous in this video, quote, I just start
8 kissing them. It's like a magnet, just kiss. I don't even
9 wait and when you are a star they let you do it. You can
10 do anything, grab them by the pussy. You can do anything.

11 That's what you said, correct?

12 Answer, well, historically that's true with
13 stars.

14 Question, true with stars that they can grab
15 women by the busy?

16 Answer, well, that's what -- if you look over the
17 last million years, I guess that's been largely true, not
18 always, but largely true, unfortunately, or fortunately.

19 Question, and you consider yourself to be a star?

20 Answer, I think you can say that, yeah.

21 And not only does this -- does the defendant
22 acknowledge having said the things contained in the Access
23 Hollywood tape, but he clarifies what they meant.

24 We understand and we accept this Court's ruling
25 that playing the Access Hollywood tape itself is too

1 prejudicial, and indeed we expect there to be testimony at
2 this trial that the very fact that the Access Hollywood
3 tape was a video is what caused the greatest concern to the
4 campaign.

5 But excluding the actual words used, would leave
6 the jury with a serious misimpression as to what that tape
7 was about and why it had such a traumatic impact on the
8 campaign and why the defendant was so desperate to button
9 up the Stormy Daniel's story.

10 The evidence of the campaign's response spinning
11 Mr. Trump's comments in the Access Hollywood tape as locker
12 room talk, will be included in other evidence in this case.
13 There will be a video of the defendant himself referring to
14 the comments that he made as locker room talk. But that
15 are makes no sense in the vacuum if the jury doesn't
16 understand what was contained on that Access Hollywood
17 tape.

18 So admitting these exhibits, the email, the clip
19 from the E. Jean Carroll deposition, including the
20 transcripts, will give the most accurate and fulsome
21 description of what was contained in the Access Hollywood
22 tape without a powerful, but arguably prejudicial imagery
23 of hearing Mr. Trump's actual voice and watch him walk off
24 of that bus.

25 This compromise, in our view, respects the

1 Court's desire to strike a balance between the probative
2 value and the prejudicial effect of the Access Hollywood
3 tape without unduly sanitizing the defendant's own words in
4 a way that risks misleading the jury and taking the
5 evidence out of its proper context.

6 THE COURT: Thank you. I am sorry. If you can
7 direct me to the page where I address that issue in the
8 motion and decision.

9 MR. BLANCHE: Page 12, Your Honor.

10 THE COURT: You will have a chance, Mr. Blanche.

11 MR. STEINGLASS: I have it on 11 to 12 of the
12 decision on the People's motion in limine.

13 THE COURT: Okay. Just bear with me one second.
14 Yes, Mr. Blanche.

15 MR. BLANCHE: Thank you, Your Honor.

16 Your Honor has already ruled, and it is obvious
17 why from what the People just put on the screen. While it
18 is true that playing the Access Hollywood audio tape, or
19 videotape is even more prejudicial, introducing emails
20 where the statement is quoted to potential witnesses in
21 this case, and introducing deposition comments from
22 President Trump from yet another case where it's read, is
23 more or less the same thing that Your Honor said is not
24 appropriate, and doesn't strike the appropriate balance.

25 The People will get everything that they need to

1 prove the charges in this case from what Your Honor has
2 already ruled.

3 They can elicit evidence that there were comments
4 of a sexual nature and that they were very, you know,
5 damage control needed to be done in the campaign. That's
6 all the testimony that they are going to elicit and Your
7 Honor is allowing.

8 They are asking Your Honor to reconsider and put
9 in this extremely salacious evidence that is very, very
10 prejudicial, and, again, it's for the small point, the
11 small admissible point as Your Honor has held, that because
12 of this Access Hollywood tape there was an ongoing kind of
13 crisis management going on at the campaign.

14 Your Honor, even that is prejudicial but we
15 respect Your Honor's rulings on that. Coming back and
16 getting a second bite of the apple, to say, well, if we
17 can't do the audio tape, can we please put it where it's
18 literally read to him in a deposition is of the same order,
19 Your Honor.

20 THE COURT: It's not a moot point, I think -- I
21 think that this is kind of the impetus -- this is what led
22 to everything that followed, so it is not a moot point.

23 My ruling that we were not going to play the tape
24 was and remains that the tape itself, to play the tape
25 itself is so prejudicial to see Mr. Trump depicted and the

1 words coming out of his mouth, facial expressions, hand
2 gestures, I remain convinced at this moment, based upon
3 what I anticipate will be the evidence, that the tape
4 itself should not come in.

5 I also think that the testimony from the E. Jean
6 Carroll deposition should not come in either. I think that
7 that's almost looping a trial into a trial and I don't want
8 to do that and all that says is that Mr. Trump admits to
9 saying that and that doesn't really, I think, advance the
10 ball.

11 I do think that the email thread is relevant. I
12 think that the email thread demonstrates and bolsters the
13 People's claim that this was a crucial event. This was a
14 critical event and there was a response within the campaign
15 and what resulted in what was going to be the subject of
16 this trial was part of that response.

17 The People are not limited to the choice of words
18 that are used in describing the tape. So, you are not
19 getting a second bite of the apple. I am clarifying my
20 ruling.

21 You can bring out what was said in the tape.
22 What I didn't want was for the jurors to hear Mr. Trump's
23 voice and see the gestures. So if you can lay the
24 foundation you can introduce the email thread. I don't
25 think it's necessary to introduce the E. Jean Carroll

1 deposition.

2 MR. STEINGLASS: Thank you, Judge. May I keep
3 going?

4 THE COURT: Yes. Please.

5 MR. STEINGLASS: Along the same lines the Court
6 reserved decision regarding the admissibility of other
7 allegations of sexual assault levied against the defendant
8 in the wake of the Access Hollywood tape, and the
9 defendant's attempt to dismiss the tape as only words, and
10 if Your Honor wishes, I can refer to page 12 of Your
11 Honor's decision on the People's motion in limine.

12 As the Court is aware our motion in limine, in
13 the days after the Access Hollywood tape was released,
14 several women came forward to accuse the defendant of
15 sexual assaults. These allegations were reported in the
16 New York Times and in People magazine.

17 These articles, which it looks like you can see,
18 came out on October 12th, five days after the Access
19 Hollywood tapes and involved allegations of sexual assault
20 by three different women. Unless the defendant opens the
21 door, we are not asking to admit these articles or describe
22 in any way the specific context referenced in those
23 articles. All we seek is to elicit the fact that these
24 allegations of sexual assault against Mr. Trump surfaced in
25 the wake of the release of the Access Hollywood tape the

1 dates these articles appeared and the specific publications
2 involved.

3 Sorry. I have a little bit more to say about
4 this.

5 The truth is, and the evidence will show, that
6 the campaign, really the candidate himself, became almost
7 obsessed with addressing these allegations, denying their
8 legitimacy and denigrating his accusers. More importantly,
9 Mr. Trump was acutely aware that the Access Hollywood tape
10 and the ensuing allegations of sexual assault were hurting
11 him with female voters, specifically with female voters.

12 I will show you what will become People's 409B, a
13 clip from the Greensboro rally on October 14th.

14 (Videotape is played in open court.)

15 MR. STEINGLASS: This theme was continued in
16 tweets the following day, the following days. This one is
17 from October 15th, in which the defendant says, tweets,
18 nothing ever happened with these women. Totally made up
19 nonsense to steal the election. Nobody has more respect
20 for women than me.

21 The next tweet the following day, October 16th,
22 polls closed, but can you believe that I lost large numbers
23 of women voters based on made up events that never
24 happened.

25 403E, a tweet from October 17th, can't believe

1 these totally phoney stories, 100 percent made up by women,
2 many already proven false and pushed big time by press have
3 impact.

4 And this clip from the Gettysburg event on
5 October 22nd, I will just play that quickly for you.

6 (Videotape is played in open court.)

7 MR. STEINGLASS: So the point here is that these
8 rallies, events and tweets, which we will be introducing
9 into evidence, powerfully demonstrate the extent to which
10 Mr. Trump was preoccupied with these allegations and
11 concerned about the impact on voters.

12 Yet these comments make little sense taken out of
13 context because in these tweets and texts he is clearly
14 referring to the recent allegations of sexual assault. So,
15 the best evidence in this case that the defendant was
16 concerned about losing female voters requires at least a
17 surface reference to these other allegations of sexual
18 assault, but nothing to do with the details of those
19 accusations.

20 And in case I haven't been clear, this concern
21 over losing female voters was the catalyst that led the
22 defendant to lock down the Stormy Daniels story before it
23 could become the proverbial straw that broke the camel's
24 back.

25 THE COURT: So what, specifically, are you

1 seeking to introduce, the three magazine articles?

2 MR. STEINGLASS: Not even the articles, Judge.

3 Just the fact that three women --

4 THE COURT: The videotapes --

5 MR. STEINGLASS: I think the videotapes are
6 independently admissible. It's the fact that there was a
7 reference to three women who had come forward with
8 allegations of sexual assault against the defendant.
9 That's it.

10 And the only reason we asked to admit that is so
11 that we can contextualize his preoccupation with losing
12 female voters insofar as that is relevant to his endeavor
13 to lock down the Stormy Daniel's story.

14 MR. BLANCHE: Judge, again, we are talking about
15 a complete, very complete, very prejudicial sideshow that
16 has nothing to do with the charges in this case.

17 And, you know, these are -- the women that are
18 discussed in the articles that are going to be elicited,
19 these charges -- these accusations are never proven, ever,
20 and the fact that they came forward at that time, there is
21 already going to be evidence admitted to at least two,
22 potentially three, witnesses that talked about what was
23 going on in the campaign without going into any detail.

24 It can't be that the People can offer an
25 elicit -- what is complete hearsay, unproven accusations,

1 and then say we are not doing it for any reason but to put
2 context around something President Trump said in the
3 speech, and the reason why Michael Cohen ultimately did
4 what was charged in this case with respect to Ms. Clifford.
5 It is so prejudicial to the jury to ask them to try to
6 figure out what's hearsay, why it's being offered for the
7 very limited probative value, especially when we know,
8 because we have the benefit hindsight, that none of these
9 accusations have proven true.

10 THE COURT: I agree with the People that the
11 videotapes, where Mr. Trump expresses his concern, clearly
12 he is agitated by these allegations, those are all
13 independently admissible, provided you lay the necessary
14 evidentiary ground work.

15 At this moment, I am going to have to deny the
16 People's request to bring in evidence of those three other
17 allegations. They are very, very prejudicial and at this
18 point given what we know today, is just a rumor. It was
19 just gossip, complete hearsay.

20 Did it happen?

21 There is nothing to prove that. So for me to
22 allow the defendant to be prejudiced on the basis of a
23 rumor, I think is just not fair. So I won't allow that.

24 But as you said, you can still use those tapes
25 and connect them to everything else that you were

1 introducing into evidence.

2 MR. STEINGLASS: Okay. The Court also reserved
3 decision on evidence that the defendant attempted to
4 dissuade witnesses from cooperating with law enforcement.
5 And there were several categories of evidence that the
6 Court referred to in its Decision.

7 And, again, I will direct you to pages 12 to 13
8 of your ruling on the People's motions in limine. The
9 Court again stated that an offer of proof was required
10 before the Court could make a ruling.

11 The first category includes the tweets and
12 communications with Michael Cohen before and after his
13 decision to provide information to law enforcement.

14 As the evidence will clarify, and as Your Honor
15 probably knows, on April 9, 2018 the FBI raided Michael
16 Cohen's home and place of business partly in connection
17 with this investigation into potential FICA violations
18 involving illegal campaign contributions to Mr. Trump.
19 That investigation included inquiry into the Karen McDougal
20 and Stormy Daniels' payoffs.

21 Within days, President Trump, then President
22 Trump, spoke on the phone with Michael Cohen and told him,
23 in substance, don't worry, everything is going to be fine.
24 I am the President. I got you. Don't worry about it. You
25 are going to be okay.

1 As time went on, Michael Cohen received messages
2 from others who reached out to say in substance, the boss
3 loves you and has your back.

4 Mr. Trump publicly supported Michael Cohen
5 telegraphing to him the importance of staying on message
6 and at the time Mr. Trump was even paying the legal fees
7 for Michael Cohen's attorneys.

8 So as, by way of example, you can see on your
9 screen, Judge, a series of tweets from then President Trump
10 less than two weeks after Michael Cohen's apartment and
11 business were raided.

12 I am not going to read the whole thing, but some
13 of the highlighted portions, going out of their way to
14 destroy Michael Cohen and his relationship with me in the
15 hope that he will flip. Michael is a fine person with a
16 wonderful family, which is why I have always liked and
17 respect him. Most people will flip if the government let's
18 them out of trouble. Sorry, I don't see Michael doing it.

19 Around the same time, Michael Cohen met with
20 attorney Robert Costello to discuss the possibility of
21 retaining him and Costello billed himself as having close
22 ties to Trump's lawyer at the time, Rudy Giuliani, and
23 Costello claimed to have opened up a back channel of
24 communication with President Trump, which was critical to
25 maintain.

1 Among the emails that establish this is People's
2 Exhibit 205. Again, I am not going to read the entire
3 thing. Some of the highlighted portions, I spoke with
4 Rudy. Very, very positive. You are loved. They are in
5 our corner. Rudy said this communication channel must be
6 maintained. Sleep well tonight. You have friends in high
7 places.

8 PS, some very positive comments about you from
9 the White House.

10 (Continued on the next page.)

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1 MR. STEINGLASS: So, in mid June of 2018, sensing
2 that Mr. Costello's loyalties were, to say the least,
3 divided, Michael Cohen began distancing himself from
4 Mr. Costello.

5 On June 14, 2018, Costello e-mailed Michael Cohen
6 with a link to a YouTube video and the subject line,
7 "Giuliani on the possibility of Cohen cooperating, Mueller
8 probe." Again, I'm not going to read the whole e-mail, but
9 some of the highlighted portions:

10 "You are believing a narrative promoted by the
11 left-wing media. Many of them are already writing that you
12 are cooperating. This strategy has been consistent from
13 start to put pressure on you into believing that you are
14 alone, that everyone you knew before is distancing
15 themselves from you, and you are being thrown under the
16 bus. They want you to cave. They want you to fail. They
17 do not want you to persevere and succeed."

18 Now, these tweets and backdoor communications are
19 clearly designed to keep Michael Cohen from breaking with
20 Mr. Trump, to keep him close. For a while, that strategy
21 worked. The evidence will be very clear that, even after
22 Mr. Trump reimbursed Michael Cohen for the unlawful
23 campaign contribution, Michael Cohen continued to deny
24 wrongdoing. For several months, he continued to lie on
25 behalf of Mr. Trump.

1 Now, the defense wants the jury to interpret
2 these lies as prior inconsistent statements, evidence of
3 his general lack of credibility, evidence that he was
4 telling the truth then when he was denying it and he's
5 lying now when he testifies before you and before this
6 jury, but the truth is that Michael Cohen stayed loyal for
7 as long as he did because of the defendant's pressure
8 campaign and we must be permitted to elicit the evidence
9 that contextualizes why Michael Cohen would deny wrongdoing
10 for so long.

11 Now, of course, we all know that the defendant's
12 strategy ultimately failed. On August 21, 2018,
13 Michael Cohen pled guilty to campaign finance violations
14 and that plea was widely reported. He allocuted that he
15 committed these FICA violations in coordination with and at
16 the direction of Mr. Trump. The very next day--the very
17 next day--the defendant switched gears and posted the
18 following tweets:

19 "If anyone is looking for a good lawyer, I would
20 strongly suggest that you don't retain the services of
21 Michael Cohen."

22 A few moments later, comparing him to
23 Paul Manafort. Well, he's actually comparing Paul Manafort
24 to Michael Cohen:

25 "Unlike Michael Cohen, he refused to break, make

1 up stories in order to get a deal."

2 These tweets, phone calls, and e-mails should be
3 admissible for two reasons:

4 First, the pressure campaign explains, as we saw,
5 why Michael Cohen continued to lie for Mr. Trump as long as
6 he did.

7 Second, immediately after Michael Cohen
8 petitioned to plead guilty and provide information, the
9 defendant began openly disparaging Michael Cohen and
10 attacking his livelihood.

11 It's a clear effort to raise the cost of
12 cooperation and, as the Court noted in its decision, such
13 conduct can certainly be probative of consciousness of
14 guilt.

15 There is virtually no danger of unfair prejudice
16 here. These are the defendant's own words publicly
17 broadcast, tweeted out for the world to see, and he should
18 not be able to prevent the jury from hearing them now.

19 These are all interrelated, this pressure
20 campaign. With the Court's permission, I'm going to tackle
21 these all at once because it's all interrelated.

22 The next category involves tweets by the
23 defendant around the time of the Grand Jury presentation in
24 this case.

25 As the Court is aware, the instant case was

1 presented to the Grand Jury in early 2023. During the
2 presentation of evidence, the defendant began posting about
3 this case. Here's a tweet--or I guess it's a Truth Social
4 post--from March 15, 2023:

5 "I did nothing wrong in the horseface case. I
6 see she showed up in New York today trying to drum up some
7 publicity for herself," et cetera, et cetera. "She knows
8 nothing about me other than her con man lawyer Avenatti and
9 convicted liar and felon jailbird Michael Cohen may have
10 schemed up. Never had an affair with her. Just another
11 false acquisition by a sleazebag." I assume he means
12 "accusation."

13 We're not seeking to admit every negative or
14 threatening tweet the defendant has ever posted against
15 Michael Cohen or Stormy Daniels. Rather, unless the
16 defendant opens the door, we seek only to admit this tweet
17 and a few others that I will get to in a moment.

18 Now, it is manifested the defendant is using this
19 tweet to attempt to influence the work of the Grand Jury in
20 this case. Again, the jury--this jury, the trial
21 jury--should be able to consider his very public statements
22 during the Grand Jury presentation to the extent that they
23 may be seen as efforts to intimidate witnesses into staying
24 quiet and, therefore, relate to his consciousness of guilt.
25 This effort continues 'til this very day and, in fact,

1 shortly, we will be asking -- we will be seeking an order
2 to show cause why the defendant should not be held in
3 contempt.

4 Now, despite the defendant's efforts to influence
5 the vote, the Grand Jury did, in fact, indict this
6 defendant. That fact that he was indicted was first
7 reported at the very end of March of 2023. The indictment
8 was unsealed on April 4th. Eight days later, the defendant
9 filed a lawsuit against Michael Cohen in Florida for
10 half-a-billion dollars based, in part, on his having
11 testified in the Grand Jury in this case--specifically,
12 that he revealed Mr. Trump's confidences and spread
13 falsehoods about the defendant.

14 Now, the defendant ultimately abandoned that
15 lawsuit rather than face a deposition by Cohen's attorney
16 on all pertinent factual matters including the subject
17 matter of this case. Nonetheless, the fact that the
18 defendant initiated this vexatious and punitive lawsuit in
19 the first place demonstrates his willingness to go after
20 those who dare defy him. Short of physical assault, it's
21 difficult to conceive of more aggressive tactics to
22 intimidate a witness than suing him for half-a-billion
23 dollars for cooperating.

24 Now, it is a manifested reasonable inference that
25 the jury can draw from this evidence--the social media

1 posts, the lawsuit--that the defendant was attempting to
2 intimidate the likely witnesses against him, but the jury
3 doesn't even have to work that hard because the defendant
4 himself has publicly embraced the overt strategy of going
5 after his perceived enemies. A few months later, the
6 defendant made this post on Truth Social, in all caps:

7 "If you go after me, I'm coming after you."

8 We expect testimony that this particular post was
9 interpreted to be a threat--an effort to keep witnesses off
10 this stand during this trial.

11 Three weeks ago, the defendant made this post on
12 Truth Social:

13 "Pomerantz and Cohen were death. Now, their hope
14 is that Judge Juan Merchan, who should be recused, will
15 pull them through."

16 Depending on your ruling, Judge, we will be
17 supplementing our exhibit designation to include this post.

18 Referring to a potential witness as death is a
19 fairly thinly veiled effort to intimidate.

20 Similarly--and in blatant violation of the
21 Court's March 26th order restricting extrajudicial
22 speech--the defendant made this post on Truth Social last
23 Wednesday:

24 "Thank you to Michael Avenatti for revealing the
25 truth about two sleazebags who have, with their lies and

1 misrepresentations, cost our country dearly."

2 He goes on to repost a tweet from
3 Michael Avenatti referring to Michael Cohen and
4 Stormy Daniels. Both the defendant's introduction and the
5 retweet violate the Court's order not to make or direct
6 others to make public statements about known or reasonably
7 foreseeable witnesses concerning their potential
8 participation in the investigation or in this criminal
9 proceeding.

10 Now, in addition to violating the Court's order,
11 this post may, once again, be interpreted as an effort to
12 intimidate potential witnesses against him. Again,
13 depending on your ruling, we will be supplementing our
14 exhibit designations to include this post.

15 Now, as we've discussed, all of this evidence is
16 relevant both to the defendant's consciousness of guilt and
17 to explain why Michael Cohen continued to lie for the
18 defendant after the scheme began to unravel, but this
19 evidence is also admissible for a third reason:

20 The defense has gone to great lengths in their
21 filings to characterize the witnesses in this case as
22 self-motivated and unworthy of belief. We assume that
23 they'll do the same at trial. But the truth is that
24 testifying in this case has hurt these witnesses far more
25 than it has helped them. They have incurred the wrath of

1 Trump supporters--a wrath fomented by these exact kinds of
2 tweets that the defendant skillfully and incessantly puts
3 out. He skillfully uses social media to attack his
4 opponents--both political and testimonial--and we should be
5 permitted to introduce evidence to offset the misleading
6 suggestion that the witnesses are benefiting from their
7 willingness to testify.

8 In that regard, I provide the Court and
9 Mr. Blanche with this case, *People v. Edwards*,
10 261 A.D.2d 260, First Department, 1999.

11 (Handed to the Court and defense counsel)

12 (Pause in the proceedings)

13 MR. STEINGLASS: This holds that, even where
14 witness intimidation can't be attributed to the
15 defendant--as it clearly can here--the fear of third-party
16 reprisals are admissible insofar as they're relevant to a
17 witness' state of mind and to rebut the defense suggestion
18 that witnesses are testifying out of their own
19 self-interests.

20 THE COURT: That decision, which I need to look
21 at, was that referring to direct testimony or redirect
22 testimony?

23 MR. STEINGLASS: I believe it was after the -- I
24 don't remember whether the actual testimony came out in
25 redirect or direct. I'm not sure if the opinion makes it

1 clear--I have to check the brief--but the point is that,
2 after the argument had been made by the defense that these
3 witnesses were benefiting and testifying out of their own
4 self-interests rather than -- This was a good thing for
5 the witnesses. That's all I have to say.

6 THE COURT: Okay.

7 MR. BLANCHE: Judge, a couple of different
8 reactions to the proffered evidence:

9 One, with respect to an e-mail sent by
10 Mr. Costello to Mr. Cohen, as far as I'm aware from the
11 evidence that's been provided by the People, there is zero
12 evidence that anything that Mr. Costello said to Mr. Cohen
13 came from President Trump. There's overtures that
14 Mr. Costello suggests that, because of his relationship
15 with Mr. Giuliani and because of his communications with
16 Mr. Giuliani -- By the way, for a portion of the time,
17 Mr. Giuliani wasn't even representing President Trump. But
18 there isn't any evidence, even from Mr. Costello, that,
19 "President Trump told me to tell you," insert whatever he
20 says. So, the idea that this pure hearsay e-mail would be
21 admissible as consciousness of guilt with respect to
22 President Trump when there is no connection between the
23 communication from Mr. Costello to Mr. Cohen and anything
24 President Trump said or did, that should be very swiftly
25 rejected because it seems like there's no connection

1 between the two.

2 Then, a couple of reactions to the tweets and
3 then the Truths:

4 With respect to the tweets that the People
5 proffer, again, to make sure that your Honor is aware, we
6 anticipate putting in a submission soon about the
7 evidentiary admissibility of the tweets while
8 President Trump was President and in the White House
9 because of presidential immunity. Putting that aside for a
10 moment, they need to be looked at individually.

11 The initial tweet that just talks about Mr. Cohen
12 being a good person and reflecting that he was his lawyer,
13 it's hard -- that was a tweet not sent to Mr. Cohen. It
14 was when President Trump was President facing a barrage of
15 news media and criticism about what was happening in this
16 case and responding to that. So, to say, "Well, that was
17 also consciousness of guilt and can be admitted in this
18 trial as consciousness of guilt," goes way too far. There
19 is no connection. That's why it can't just be wholesale
20 every tweet comes in or every Truth comes in. Each one has
21 to be looked at individually.

22 The ones that are more recent, your Honor, the
23 Truths, it's pretty rich that, when there's leaks from the
24 Grand Jury a year-and-a-half ago--and I'm not accusing
25 anybody or saying who leaked that--and then-candidate

1 President Trump is responding forcefully, that that's now
2 going to be used as some sort of threatening of witnesses
3 or consciousness of guilt. He has a right to defend
4 himself. He has a right to defend himself not only against
5 the witnesses themselves who are broadcasting from the
6 rooftops just as loudly or trying to be just as loudly as
7 President Trump's communications but also the American
8 public. He's facing criticism from all kinds of people
9 from the other side, the individuals he's running
10 against--at this point, President Biden--and also from the
11 media and from others. He's defending himself. So, it's
12 neither here nor there as it relates to the language used,
13 but it's being offered by the People as some sort of
14 consciousness of guilt or pressure campaign and that opens
15 way too many questions for the jury.

16 Now, as your Honor asked at the end, there are
17 potentially cross-examination questions that we could ask
18 of Mr. Cohen where, potentially, the door could be
19 opened--I agree with that--but it shouldn't be that, in
20 their case in chief, they can take a Truth or a tweet that
21 President Trump sends to his millions and millions of
22 followers, again, either while President or as a candidate.
23 He's certainly not just speaking to Mr. Cohen or
24 Ms. Clifford. Of course not. It's being broadcasted to
25 the whole world and used against him in this case as

1 consciousness of guilt or as part of a pressure campaign.

2 I'll address the more recent ones in connection
3 with the order to show cause, but I think the same argument
4 applies as it relates to coming into evidence at trial.

5 THE COURT: Regarding your submission you intend
6 to make, I haven't seen it.

7 MR. BLANCHE: It hasn't been made.

8 THE COURT: I know.

9 If the argument is that tweets that your client
10 sent out while he was President cannot be used because they
11 somehow constitute an official presidential act, it's going
12 to be hard to convince me that something that he tweeted
13 out to millions of people voluntarily cannot be used in
14 court when it's not being presented as a crime. It's just
15 being used as an act, something that he did. **But we'll**
16 **wait until we get that submission.**

17 Just to clarify, People, are you looking to
18 introduce this and use this on your direct case or on
19 redirect or on rebuttal? How is it that you anticipate
20 using this?

21 MR. STEINGLASS: Well, I anticipate using it on
22 our direct case--there's a lot of different categories
23 here--but I don't think we have to wait until the
24 cross-examination of Michael Cohen to address the argument
25 that they have clearly put forth. I'm sure they're going

1 to open on it and it's going to be a major theme of the
2 case that Michael Cohen is lying, that he was telling the
3 truth back then, and that he's lying now to curry some kind
4 of favor or because it's in his pecuniary interest to do
5 so. I suppose it's possible that they would have said a
6 word about this by the time Michael Cohen gets on the
7 stand, but I think it's fairly unlikely.

8 If the Court is interested in this exercise, we
9 can go back and kind of separate out what we think should
10 be admissible on our direct case and what would require the
11 door to be opened.

12 THE COURT: I don't think this is the right time
13 for that. I think it will be pretty time-consuming.

14 MR. STEINGLASS: Yeah.

15 THE COURT: Let's go ahead and take a 10- or
16 15-minute break at this time.

17 * * * * *

18 (RECESS TAKEN)

19 * * * * *

20 THE CLERK: Case on trial continued.

21 THE COURT: In considering the various arguments
22 offered by both the People and the defense, you can't
23 dispute that virtually everything that you put up is
24 probative of something to some degree--whether it's
25 consciousness of guilt, to explain Mr. Cohen's turnaround,

1 to offset allegations that the witness is somehow
2 benefiting from this--but I think that this issue is pretty
3 much academic. The reason is --

4 Well, first, let's go back to the decision that
5 you handed up, People v. Edwards.

6 It's not a hundred percent clear from the
7 decision, but it does appear that this decision relates to
8 redirect testimony. At the beginning of the last
9 paragraph, the Court wrote:

10 "The Court properly exercised its discretion in
11 receiving testimony from an incarcerated People's witness
12 that fellow inmates had called him a snitch because of his
13 cooperation with the prosecution and that he feared
14 reprisals. These specific threats were relevant to the
15 witness' state of mind since a major theme of the
16 defendant's attack on this witness' credibility was that he
17 was testifying out of self-interest."

18 Can we be sure that this was redirect? No. But
19 it would appear that it was.

20 The reason I say it's academic is I have a hard
21 time seeing how the defense cannot open the door to most of
22 this. Now, they could open the door when the witnesses
23 take the stand, they could open the door on opening
24 statements, they could open the door through jury
25 selection. It depends what is said and when it's said. I

1 don't know exactly what the defense strategy is going to be
2 so I can't speak for them, but I imagine that there's going
3 to be an effort to discredit Michael Cohen. The minute
4 that's done, the door is opened. The minute the defense
5 says, "Michael Cohen is a liar and he's a liar because,
6 look, here, he said one thing and he defended Mr. Trump,
7 but then, here, he told a totally different story. So,
8 therefore, you can't believe anything he says." That
9 seems, to me, like that would very easily open the door.
10 Obviously, you'll ask before you proceed with anything, but
11 I really think it's an academic issue. So, you can't
12 introduce it in your direct examination; you may be able to
13 introduce it on your redirect; and, depending how the case
14 goes, there may be rebuttal.

15 Anything else from the People?

16 MR. STEINGLASS: Yes.

17 One more clarification regarding Michael Cohen's
18 guilty plea to campaign finance violations. I'll direct
19 the Court to Page 5 to 6 of the Court's ruling on the
20 defense motion in limine:

21 The Court held that the People are precluded from
22 arguing that Michael Cohen's guilty plea to FICA violations
23 is probative of the defendant's guilt in the instant
24 matter. We have no intention of arguing that. The Court
25 also said that the underlying facts of the guilty plea are

1 admissible provided the proper foundation is laid. The
2 Court noted that Michael Cohen may be asked whether there's
3 a criminal proceeding related to his actions with respect
4 to the FICA violation. Finally, most importantly, the
5 Court wrote, "If requested, the Court can give the jury a
6 limiting instruction explaining the purpose for which
7 Cohen's plea and A.M.I.'s conciliation agreement may or may
8 not be considered."

9 We just want to make sure we understand this
10 ruling so that we can elicit testimony about the fact that
11 Michael Cohen pled guilty to FICA violations. Of course,
12 the limiting instruction that this Court offered a
13 willingness to give certainly presumes the fact of the
14 guilty plea has been admitted, but, like I said, we don't
15 want to violate the Court's ruling.

16 We have, as I said before, no intention of
17 arguing to the jury that Michael Cohen's guilty plea is
18 probative of the defendant's guilt, but the fact of the
19 plea is highly relevant for at least three reasons:

20 First, the fact that he pled guilty is highly
21 probative of his credibility--that is, that he accepted
22 responsibility for his conduct in this regard.

23 Second--and related--it would be a perverse
24 outcome if we were not permitted to draw the sting on
25 direct examination by eliciting the fact that he pled

1 guilty to these violations and then permit the defense to
2 cross-examine him about the same guilty plea because that
3 would look like we're hiding it from the jury.

4 Third--and, really, the most important
5 argument--is what we've touched on already that, during the
6 period where Michael Cohen remained in the Trump camp, he
7 continued to lie on the defendant's behalf to deny his
8 participation in any FICA violation. At the defendant's
9 behest, he actually issued several statements denying that
10 there was a FICA violation in the first place. That
11 changed when Michael Cohen decided to accept
12 responsibility, plead guilty, and provide information to
13 law enforcement concerning his participation in the scheme.
14 Therefore, eliciting evidence about the plea is essential
15 to explain the shift--to give the jury context to
16 understand why, after years of denying the conduct, he's
17 now admitting that he began telling the truth about this.
18 This can't wait until cross-examination. I expect they're
19 going to do it in their opening anyway. So, I don't think
20 it's a question of opening the door. This is explaining
21 why Michael Cohen basically changed his tune and it has to
22 do with his guilty plea.

23 The defendant's attack tweets that we just spoke
24 about came literally the day after Michael Cohen's guilty
25 plea. So, both the fact of and the date of that plea are

1 critical.

2 In that regard, I'll just point out that
3 Michael Cohen is very much like a co-defendant in a robbery
4 case who agrees to testify against his cohort. Certainly,
5 in such circumstances, the fact that the cooperating
6 witness pled guilty to the very crime for which the
7 defendant is charged is routinely admitted.

8 So, we seek clarification here that we are, in
9 fact, permitted to mention his guilty plea not just --
10 mention it in jury selection, mention it in our opening,
11 and during his testimony. We, of course, don't intend to
12 try to make any kind of argument that that is probative of
13 the defendant's guilt and we have no objection to a
14 limiting instruction advising the jury that they cannot
15 consider Michael Cohen's guilty plea as evidence of the
16 defendant's guilt.

17 MR. BLANCHE: Can I just have one second?

18 THE COURT: Sure.

19 (Counsel consulting with co-counsel)

20 (Pause in the proceedings)

21 MR. BLANCHE: Thank you, your Honor.

22 The defense's intention as it relates to the
23 prior guilty plea by Mr. Cohen is to elicit questions
24 around it but not around the -- given your Honor's ruling
25 on the motion in limine, not around the campaign finance

1 violation. It's not our intention to cross him on that
2 because we do think it's not admissible. There are certain
3 other crimes that he pled guilty to including the ones that
4 he now claims that he was lying about when he pled guilty
5 to them that we certainly will elicit, but it's our
6 intention to not elicit any cross-examination of Mr. Cohen
7 on the FICA violations.

8 THE COURT: The guilty pleas that you're
9 referring to, it all happened at the same time?

10 MR. BLANCHE: Same day, yes, your Honor.

11 THE COURT: So, he pled guilty to all of these
12 crimes on the same date and, when he was sentenced, he was
13 sentenced for all of these crimes?

14 MR. BLANCHE: Yes.

15 THE COURT: Okay.

16 I'm not sure I see how you can pick and choose
17 which crimes you're going to go into. You want to bring
18 out crimes that he was convicted of to demonstrate that
19 he's a bad guy or to show that he can't be believed, he can't
20 be trusted, but, at the same time, you want to stay away
21 from an area that the People are definitely going to want
22 to go into. I don't see how that could be done.

23 MR. BLANCHE: Well, your Honor, if I may, that
24 happens regularly. There is a witness that we can
25 cross-examine on certain prior convictions, but the defense

1 can choose not to open the door about other convictions
2 that the defendant pled guilty to. In this case, we don't
3 believe there was a campaign finance violation, full stop.
4 So, we're choosing -- That's not something that the jury
5 is potentially going to hear, assuming your Honor's ruling
6 stands, but we certainly can pick and choose.

7 THE COURT: Well, I agree with you that what you
8 described does happen. Sometimes, that's the result of
9 Sandoval. Sometimes, that's just the result of defense
10 strategy. In those instances, we're normally talking about
11 different crimes on different dates and different
12 incidents. We're not talking about the same set of facts
13 that brought that defendant to that plea.

14 Maybe I'm wrong. People, would you like to
15 respond?

16 MR. STEINGLASS: Sure.

17 Judge, first of all, of course, we agree with you
18 that you can't really dissect the guilty plea and extract
19 the portion that they don't want to use and leave in the
20 portion that they do, but, even more fundamentally--and I
21 come back to that example of the robbery defendant--I can't
22 think of a single case where a cooperating witness hasn't
23 been able to testify that he pled guilty to the same crime
24 that the defendant is being charged with not because that's
25 probative of the defendant's guilt but because it's

1 probative of the witness' credibility insofar as he's
2 accepted responsibility for his participation in that crime
3 and that he's charged with it and what his sentence was.
4 That is how the jury is supposed to assess the credibility
5 of a witness even if it weren't intertwined with the other
6 guilty pleas that Michael Cohen entered into that day.

7 MR. BLANCHE: Your Honor, President Trump is not
8 charged with that crime. It's completely different from
9 the supposed robbery conspiracy example that happens all
10 the time and that we may be in violent agreement with the
11 People on. It's nothing like this case. To the contrary,
12 there's a lot of open debate--and, certainly, correct
13 debate, in our view--that brought about campaign finance
14 violations. By the People being allowed to elicit from
15 Mr. Cohen that he pled guilty to a campaign finance
16 violation, assuming we're not going to cross him on that,
17 there is zero probative value of that--zero--as it relates
18 to Mr. Cohen except for the jury to be left with the
19 improper impression that, because Michael Cohen chose to
20 plead guilty to that, for whatever reason, that somehow
21 means the crime occurred and that somehow means
22 President Trump committed the crime which he's not charged
23 with. So, this is a fundamentally different issue than
24 what the People are talking about in a traditional sense of
25 when a co-defendant is charged with a robbery. No.

1 THE COURT: Doesn't it also leave the jury with a
2 mistaken impression of what took place if he is crossed on
3 some of the things that he pled guilty to if he's not
4 crossed on some of the other things that he pled guilty to?
5 The jury is left with the impression that that's what he
6 pled guilty to and nothing else and that's not true.

7 MR. BLANCHE: They won't be left with any
8 impression meaning the impression the jury is left with
9 about prior credibility issues of a witness, whatever they
10 may be, of course, there's other issues that, in theory,
11 the witness has --

12 THE COURT: People, why don't you have a seat and
13 let Mr. Blanche finish what he has to say.

14 Go ahead.

15 MR. BLANCHE: Your Honor, there's always going to
16 be conduct that a witness has committed in their past that,
17 for any number of reasons, is not either elicited because
18 the defense doesn't want to or because the Court doesn't
19 allow it. So, the idea that the jury could be confused, I
20 don't think that that's true, Judge. They won't be
21 confused. They're going to hear about --

22 THE COURT: I didn't say confused. I said
23 misled.

24 MR. BLANCHE: Sorry.

25 The idea that the jury would be misled because

1 Mr. Cohen is not cross-examined on the fact that he chose
2 to plead guilty to a campaign finance violation that
3 President Trump is not charged with--and I don't expect the
4 People to say he's charged with-- By the way, that's
5 your Honor's ruling.

6 THE COURT: Mr. Blanche, can you direct me to the
7 page of the decision and order that deals with this issue?

8 MR. STEINGLASS: It's Page 5, Judge, of your
9 ruling on the defendant's motion in limine.

10 MR. BLANCHE: Yes, Page 5.

11 THE COURT: I'm re-reading it and I don't see
12 confusion. I wrote it, but it's not confusing to me. I'll
13 read it into the record:

14 "Defendant's motion is granted to the extent that
15 the People are precluded from arguing that Cohen's guilty
16 plea to FICA violations is probative of defendant's guilt
17 in the instant matter. However, testimony about the
18 underlying facts of the guilty plea are admissible provided
19 the proper foundation is laid. Further, Cohen may be asked
20 whether there was a criminal proceeding related to his
21 actions with respect to the FICA violations."

22 I think that it's pretty clear there.

23 MR. BLANCHE: Your Honor, perhaps, the confusion
24 comes from the last sentence of that paragraph on Page 5,
25 your Honor, where the Court says, "The Court can revisit

1 this ruling if either side opens the door in a way that
2 warrants the Court's reconsideration." What is that
3 speaking to?

4 THE COURT: That speaks to the fact that nobody
5 knows what's going to happen at trial. It would be wrong
6 for me to make a ruling tying everybody's hands when
7 something could possibly happen at trial that could change
8 my opinion. I can reverse myself. I can change my
9 opinion.

10 MR. BLANCHE: I understand. I'm sorry. I didn't
11 mean --

12 THE COURT: That's all that meant. In fact,
13 that's the case with all the rulings. If something happens
14 at the trial that causes me to revisit a prior ruling, I'll
15 do that.

16 This is a road map. The order is a road map. I
17 think this portion of the road map is pretty clear as to
18 what people can do and cannot do.

19 MR. BLANCHE: Can I just make sure that I
20 understand it's clear, your Honor?

21 THE COURT: Sure.

22 MR. BLANCHE: The Court writes, "Testimony about
23 the underlying facts of the guilty plea," meaning testimony
24 about, what I read to that mean, what Mr. Cohen did to
25 commit the crime--he arranged for a HELOC loan or he wired

1 money to a lawyer for Ms. Daniels--those are admissible,
2 which, of course, we don't quibble with at all. Further,
3 "Cohen may be asked whether there was a criminal proceeding
4 related to his actions with respect to the FICA violation."
5 Our understanding is that is a very general question about
6 a criminal proceeding. That's different in kind than
7 eliciting, "Did you plead guilty to that conduct?" That's
8 what we're objecting to.

9 THE COURT: Pleading guilty would be considered a
10 criminal proceeding.

11 People?

12 MR. STEINGLASS: I share that interpretation that
13 your Honor just said. It seems to me that any residual
14 confusion is clarified by the last sentence, which I
15 quoted, in that section of your decision where you say,
16 "The Court can give the jury a limiting instruction
17 explaining the purpose for which evidence of Cohen's plea
18 and A.M.I.'s conciliation agreement may or may not be
19 considered."

20 THE COURT: I don't want the jury to think that,
21 because Michael Cohen pled guilty to FICA violations or
22 anything else, therefore, Mr. Trump is guilty of that.

23 MR. STEINGLASS: We're not going to argue that.

24 THE COURT: The People have been directed not to
25 do that.

1 I will ask at this time that the two sides, if
2 you're willing, please draft a limiting instruction that I
3 read to the jury.

4 MR. BLANCHE: There's no confusion about that
5 issue--and we will ask for such an instruction, for
6 sure--but what can be argued from the fact that he pled
7 guilty a FICA violation? Meaning what is the reason it's
8 being elicited if we're not going to elicit it? They're
9 going to elicit that he pled guilty to a FICA violation.
10 What's the probative value of eliciting that testimony on
11 direct if we don't open the door and we agree we're not
12 going to cross-examine him on that? What can they say to
13 the jury in summation about the fact that Mr. Cohen pled
14 guilty to the FICA violation?

15 THE COURT: Well, we're jumping ahead to
16 summation. I think whatever they can say about that in
17 summation is very limited. They certainly cannot imply or
18 suggest that, because he pled guilty to a FICA violation,
19 that, therefore, Mr. Trump is guilty of a FICA violation.
20 They certainly can't do that. They can't hide it. They
21 can't argue it.

22 MR. BLANCHE: That's why we're fighting it to
23 come in. The defense doesn't think there's anything that
24 the People can stand up and say, based upon that
25 testimony -- If we don't cross him on it, what does it

1 matter that he pled guilty to a FICA violation?

2 THE COURT: I understand your question,
3 Mr. Blanche, but this was never raised by you. This was
4 never raised by the defense. I was never asked to clarify
5 this ruling. I rendered my ruling in March and nobody
6 asked me to clarify it.

7 MR. BLANCHE: We don't think it needs any
8 clarification.

9 THE COURT: Okay. So, there you go. I don't
10 think it needs any clarification either.

11 MR. STEINGLASS: That's it for the clarification
12 on the motions in limine.

13 I believe Mr. Conroy has an application.

14 THE COURT: Is that on the order to show cause?

15 MR. STEINGLASS: Yes.

16 THE COURT: Let me hear from the defense first if
17 they have any issues.

18 * * * * *

19 (At this time, Vincent M. Gerald, III was
20 relieved by Theresa Magnicari as Senior Court Reporter)

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1 MR. BLANCHE: Thank you, your Honor.

2 There are two separate issues, mostly procedural,
3 but significant. They both surround the way that we have
4 been complying with the court's directive regarding filing
5 motions. There are two separate issues that we want
6 guidance from the court on how to deal with going forward.

7 The first is the pre-motion letter process that
8 the court now has in place. What we now are required to
9 do is, before filing on the public docket a pre-motion
10 letter, we have to share it with the People and give the
11 People 48 hours to decide whether there is anything that
12 needs to be redacted.

13 The practical problem with that is perhaps obvious
14 now that we're on trial, but it became obvious on Friday
15 morning when we sought to put in a pre-motion letter with
16 respect to the questions about today, the scheduling and
17 whatnot. We provided that pre-motion letter to the People
18 and indicated to them that we wanted to file within a half
19 hour and said, "Unless you need more time or unless you
20 have redactions," which we felt was the appropriate way to
21 show urgency is the word. We wanted to get it before your
22 Honor as soon as possible.

23 We received an email back from the People saying
24 they had no redactions, but threatening us they would seek
25 sanctions if we tried to violate the court's 48 hour rule.

1 We're not trying to violate the court's 48 hour rule.

2 There is no practical way -- there was certainly
3 nothing in the letter about jury selection that affects the
4 prospective order or would otherwise need be to be
5 redacted. We just need guidance going forward.

6 The second issue has to do with the same process
7 but with the redactions issue. So we have an order to show
8 cause that we weren't able to file until this morning
9 regarding a subpoena to Ms. Clifford. On Friday we
10 provided that to the People. On Saturday morning we
11 provided our proposed redactions. And then, in theory,
12 they have 48 hours within which to respond. They responded
13 timely and had additional redactions.

14 We very much disagree with the additional
15 redactions. There is nothing in the court's guidance on
16 what we're supposed to do about that. The way the process
17 is right now, we either can engage in a discussion with the
18 People, that could take as long as it takes, but no motion
19 has been filed.

20 Or, alternatively, go to the court for relief.
21 But to go to the court for relief, we're not permitted to
22 email the court. So, in theory, we would have to file a
23 motion letter.

24 THE COURT: That is not entirely accurate. You
25 are prohibited from emailing --

1 MR. BLANCE: Sorry, I didn't mean to interrupt.

2 In order to address the redactions, we would need
3 to file a pre-motion letter with the court saying we have
4 differences with the redactions. That kicks the whole
5 process again, and they have 48 hours.

6 THE COURT: You can ask for clarification.

7 MR. BLANCHE: It's not working.

8 THE COURT: We can clarify.

9 So just by way of background, the reason why the
10 court implemented this policy of requiring the pre-motion
11 letter be filed first and giving the other side an
12 opportunity to respond is because we were being absolutely
13 innidiated with motions, most of which, frankly, were close
14 to frivolous, if not frivolous. And as you know, as you
15 have limited resources, the court has limited resources,
16 and therefore the court in order to manage its docket
17 implemented that policy.

18 I think that the 48 hour rule probably does not
19 mean to apply to the pre-motion letters because we're
20 talking about one document that is one page. So what I
21 would ask, when you submit a pre-motion letter, that the
22 other side get back to whoever filed it by the end of that
23 business day and let him know if there are any objections
24 or redactions that need to be made.

25 MR. STEINGLASS: We're fine were that. Just to

1 clarify, what we objected to on Friday was the threat that
2 if we didn't clear it, it was going to be filed, and giving
3 us half an hour to make that determination. We have no
4 problem complying and reviewing it quickly, reviewing any
5 submissions quickly, and we may endeavor to do so.

6 THE COURT: Please wait for him to finish.

7 MR. STEINGLASS: The entire motion that counsel
8 refers to that they submitted redactions on Saturday
9 morning, we cleared on Saturday afternoon. So this is not
10 a game. But that doesn't mean that because the defense
11 says, "If you don't respond to this in half an hour we're
12 going to flout the court's order, "that's what we objected
13 to.

14 My proposal, Judge, and I am fine with your
15 suggestion about getting back at the end of the business
16 day, but that has to presume they're not sending it to us
17 at 4:30. And, you know, if we don't happen to see the
18 email the next thing we know, pre-motion letters, which as
19 we all know, the defense appends exhibits to that contains
20 information that would violate the protective order.

21 THE COURT: I think that Mr. Blanche is clear now
22 that a pre-motion letter is one page. I notice that the
23 font has been getting increasingly smaller, the margins
24 larger. But there are no exhibits, there are no
25 attachments, there are no emails. It's an email telling me

1 that a pre-motion letter is attached, and that is it.

2 MR. BLANCHE: Judge, I do not want to belabor
3 this. There is an email that was sent, and what we sent to
4 counsel for the People is that, "Unless you inform us that
5 you need more time to review and confirm redactions." I
6 am not threatening to flout the court's orders. To the
7 contrary, I asked them to let me know if they needed more
8 time. I don't know what to do with this situation.

9 THE COURT: This is what we're going to do. Both
10 of you sit down, relax. We have about 500 jurors waiting.
11 And to be honest with you, I am really not interested in
12 getting involved in this minutia, whether it was 4:30, was
13 it not 4:30, is someone going to threaten sanctions. I am
14 not interested in that. That is one of the reasons why I
15 did limit when I should be notified. There's more
16 important work to be done.

17 I expect both of you to conduct yourselves as the
18 professionals that you are. Both sides. Period. Work it
19 out.

20 MR. BLANCHE: On the second issue, to propose a
21 path forward on the redaction issue, if we have a
22 disagreement with the People about the level of redactions,
23 under those circumstances, can we continue to submit the
24 various options to the court?

25 THE COURT: Yes.

1 MR. BLANCHE: Thank you, your Honor.

2 THE COURT: Yes, you can.

3 I think you have a second issue, was that it?

4 MR. BLANCHE: Those were two separate issues.

5 Those were both of them.

6 THE COURT: Mr. Conroy, I know I said you would go

7 next. I am actually thinking of jumping ahead just to go

8 through my pretrial checklist just so you do what you need

9 to do.

10 So what I'm going to do now is read through the

11 way that I preside over trials, so there is no confusion,

12 there are no questions later on.

13 So let's begin first with the time limit on voir

14 dire. So ordinarily for most trials I allow 15 minutes in

15 the first round, 10 minutes in subsequent rounds. Clearly

16 this case calls for a little bit more than that. But I

17 will also qualify that by saying most cases have a

18 questionnaire that only has 15 questions. This one has

19 more than 42. So by the time you get up to conduct your

20 voir dire, there really shouldn't be that much left.

21 But, Mr. Blanche, what is your suggestion for what

22 would be an appropriate amount of time on the first round

23 and second round?

24 MR. BLANCHE: We would ask for half an hour in the

25 first round and then with the remaining, 20 minutes.

1 THE COURT: People.

2 MR. STEINGLASS: That was our original request so
3 we, of course, agree.

4 THE COURT: Okay. There you go.

5 All right.

6 If defense counsel examines jurors about the law,
7 that a defendant is not required to testify, defense
8 counsel must not attempt to explain how the defendant
9 and/or defense counsel will decide whether the defendant
10 testifies, and defense counsel must not offer a reason why
11 the defendant might not testify.

12 On the same subject, telling the jury that they
13 may hear only one side of the story or words to that effect
14 is not permitted. What usually ends up is suggesting that
15 there are two sides to a story, including one side that is
16 favorable to the defendant, that the defendant, for
17 whatever reason, has chosen not to testify about.

18 No counsel should attempt to tell the jury what I
19 will charge on any subject.

20 Likewise, no counsel can attempt to suggest to the
21 jury what my view of the law is on anything.

22 Regarding Batson, I remind counsel that a Batson
23 motion is premised on discriminatory conduct in the
24 selection of jurors and that is a serious charge. And a
25 baseless motion should not be made for some perceived

1 tactical advantage. Unlike normal rulings during the
2 trial, a ruling that an attorney has engaged in
3 discrimination in the selection of jurors is misconduct.

4 To minimize movement and for security reasons, I
5 ask all counsel and the defendant to please remain seated
6 when the sworn jurors come in and out. We do not need to
7 rise when the jury panel enters the courtroom.

8 When conducting cross-examination or direct
9 examination, either way, counsel is directed to not
10 approach the witnesses at any time. If there is anything
11 that you would like to hand the witness, please just ask
12 one of our officers, the sergeant, they're very helpful,
13 they will be happy to take it from you and hand it to the
14 witness. But please do not approach the witnesses.

15 If the defendant will testify, defense counsel
16 may, of course, in the opening, refer to what a defendant
17 is expected to say. If the defendant will not testify,
18 defense counsel may not in the opening testify in place of
19 the defendant. Defense counsel cannot, for example,
20 attempt to say at any time what the defendant himself
21 personally has to say about the case.

22 Counsel, may, however, inform the jury, as the
23 court has explained in its voir dire, that the defendant
24 has pled not guilty or answered the indictment that he is
25 not guilty of the accusations.

1 When prepping the witnesses, each counsel should
2 advise them that they should not answer a question if they
3 hear an objection until I rule on that objection.

4 Also, please explain that they must answer if I
5 overrule the objection, and that they must not answer if I
6 sustain the objection.

7 The lawyers may only ask questions of the
8 witnesses. No introductory statements to the question and
9 no comments from the witness' answer.

10 If any counsel believes a witness should be
11 instructed by the court in a particular way, make that
12 application to the court outside the presence of the jury.
13 There is one exception to that rule, a request to have a
14 witness answer yes or no may be made during the examination
15 in the presence of the jury when the witness is plainly
16 and unequivocally not answering yes or no to the question,
17 when plainly and unequivocally calling for that answer.
18 The court's initial instructions will be, in essence, if
19 the witness can answer such question yes or no, if the
20 witness can. And if the witness cannot, the witness should
21 indicate that he or she cannot. So if the witness says
22 he or she cannot answer yes or no, counsel must then
23 decide whether to take the answer or ask a different
24 question.

25 Please do not ask opposing counsel in the presence

1 of the jury to stipulate to anything. That request must be
2 made out of the presence of the jury.

3 Likewise, please do not ask counsel to take
4 judicial notice of anything in the presence of the jury.
5 That request must be made outside the presence of the jury.

6 Explanations of objections in the presence of the
7 jury are prohibited. Sometimes called speaking objections.
8 Attorneys should simply object and the court will rule. If
9 the court requests the basis or the grounds of the
10 objection, counsel will provide the legal basis for the
11 objection, such as hearsay, or assumes a fact not in
12 evidence. If there is an extended basis for arguing an
13 objection, the court will hear counsel outside the presence
14 of the jury.

15 Each counsel will all be granted an appropriate
16 and adequate opportunity to make a record with respect to
17 an objection or application provided it is outside the
18 presence of the jury and at a point in time the court finds
19 it's not unreasonably interfering with the progress of the
20 trial.

21 There must be no courtroom colloquy between the
22 lawyers during any proceedings in or out of the presence of
23 the jury or at any time or at the bench. The lawyers
24 should address all statements to the court, to me, not to
25 one another.

1 Please bring any proposed jury charges to my
2 attention as early in the process as possible so that we
3 can begin evaluating them and working on them.

4 At this time, I remind you also about the limiting
5 instructions that we just spoke about.

6 Regarding summations, if during summations a
7 visual aid which is not in evidence is to be used, opposing
8 counsel and the court must be notified of that prior to the
9 summations.

10 If the defendant testifies, defense counsel may,
11 of course, in summation refer to the defendant's testimony.
12 If the defendant did not testify, defense counsel cannot
13 attempt to say what the defendant himself personally says
14 about the case, including that the defendant says that he
15 is not guilty or similar exculpatory words. In short,
16 defense counsel may not testify in place of the defendant.
17 Likewise, if the defendant did not testify, defense counsel
18 must not attempt to explain to the jury the reasons why the
19 defendant did not testify.

20 Counsel, have you had an opportunity to discuss
21 Antommarchi with your client?

22 MR. BLANCHE: Excuse me.

23 THE COURT: Have you had an opportunity to discuss
24 Antommarchi with your client?

25 MR. BLANCHE: Yes. President Trump wants to be

1 present at everything. Obviously, as the trial goes
2 forward, if there is a particular conference or colloquy
3 with the court that he waives his presence for, I will
4 indicate it, but he does want to be present.

5 THE COURT: All right. That gets a little tricky.
6 I almost prefer if he either does or does not attend every
7 conference because at one point if it gets put on the
8 record that he has waived, it could present a problem down
9 the road.

10 MR. BLANCHE: Understood. I will put on the
11 record right now, to the extent that he is not present at
12 one, it is waived based upon my discussions with my client
13 that he intends to attend, but there may be an occasion
14 where he doesn't.

15 THE COURT: Now, what you are saying now, does
16 that apply only to jury selection or does he want to attend
17 every bench conference during the trial?

18 MR. BLANCHE: For purposes of jury selection, yes.
19 If it's okay with the court, I will update the court before
20 the start of the trial with respect to the sidebars during
21 the trial.

22 THE COURT: All right.

23 So now we have to figure out how to do that
24 because your client has elected to not waive Antommarchi,
25 he needs to be present. Wherever he goes, Secret Service

1 goes. We're going to try to do this in the jury room in
2 the back. I'm not sure that everybody that wants to be
3 back there is going to fit back there and I'm not sure that
4 it's the best scenario. If I have a jury box full of
5 jurors and an audience full of jurors, I can't ask them all
6 to step out. It's just impractical.

7 So what I think I am going to do then is, when the
8 jurors are answering the questionnaires, if any juror at
9 any time says, look, I feel uncomfortable, I would like to
10 discuss this in private, I am going to ask them to continue
11 and finish the questionnaire until all are done. Then, at
12 that point, we'll go in the back, and anybody who wants to
13 discuss anything in private will be asked to line up and
14 join us in the jury room.

15 Does that sound reasonable?

16 MR. BLANCHE: That's fine. Yes, your Honor.

17 Thank you.

18 MR. STEINGLASS: Yes, thanks, Judge.

19 THE COURT: Now, with regard to Parker warnings.

20 So, Mr. Trump, you may remember that on April 3rd
21 I gave you something that are called Parker warnings. And,
22 as I explained, that that is something that I do for every
23 defendant who appears before me. I am not saying it for
24 any reason whatsoever, this is something that I do.
25 And so although you've already had the Parker warnings, I

1 am going to repeat them at this time now that we're at a
2 different stage of the proceedings.

3 Today we're going to begin to pick a jury. So
4 these Parker warnings take on special significance. You
5 have the right to be present during the trial, and that is
6 an important right. It permits you to assist in your
7 defense, to assist your attorneys in their defense of you.
8 Do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You can, however, on your conduct
11 lose that right to be present. If you disrupt the
12 proceedings in any way, the law permits the court to
13 exclude you from the courtroom and commit you to jail and
14 continue the trial in your absence. Do you understand?

15 THE DEFENDANT: Yes.

16 THE COURT: If you deliberately fail to appear
17 here for trial, that will constitute a forfeiture of your
18 right to be present. A warrant will be issued for your
19 arrest, the trial will continue in your absence, and if
20 there is verdict of guilty and you again fail to appear for
21 sentence, you will be sentenced in absentia. And upon your
22 arrest, a sentence will be executed. You will also be
23 subject to separate prosecution and separate punishment
24 for bail jumping no matter what happens in this trial.
25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Thank you.

3 I think those are all the instructions that I had.

4 Mr. Conroy.

5 MR. CONROY: Thank you, Judge.

6 If it's all right, may I use the podium?

7 THE COURT: Of course.

8 MR. CONROY: Judge, we are seeking --

9 THE COURT: Is the microphone on?

10 MR. CONROY: I'm not sure.

11 THE COURT: See if you can give him a hand
12 figuring that out.

13 MR. CONROY: I'll come down.

14 THE COURT: We can work it out. You can also turn
15 the podium if you are more comfortable that way.

16 MR. CONROY: Thank you very much, Judge.

17 Judge, we're seeking permission to file with the
18 court a proposed order to show cause to show why the
19 defendant should be held in criminal contempt for violating
20 this court's April 1st, 2024 order regarding restraint on
21 judicial statements pursuant to Judiciary Law Section 750
22 (A((3) and 751, subsection 1.

23 You will see in our papers, which include an
24 affirmation and a memo of law and a proposed order to show
25 cause, that we're asking the court to impose a sanction of

1 \$1,000 for each of three posts that violate the court's
2 order.

3 We're also asking the court to direct the
4 defendant to take down the offending posts. And we're
5 asking the court to remind the defendant that further
6 violations of the court's order could result in jail time.

7 At this time, I hand up the papers.

8 I also just want to note for the court, and this
9 is not in the papers, that a little after 9 o'clock this
10 morning I was alerted that there was another post that we
11 will seek to include in this violation. It was at 9:12
12 this morning. It's entirely possible that it was done
13 while in this courthouse. And in that post there is a
14 picture of Michael Cohen. This is a New York Times
15 article, and the post on the defendant's Truth Social
16 account, "A serial perjurer will try to prove an old
17 misdemeanor against Trump in an embarrassment for the New
18 York legal system." That is something that is not included
19 in these papers which I am handing up.

20 Judge, the first thing you will see is the actual
21 proposed order to show cause, and there are four copies
22 there. I leave it to your Honor.

23 But what we would like is, if your Honor decides
24 to sign that order and put in the various dates for
25 papers and for potential hearing, once we have a signed

1 version of that back, if the court signs it, we will then
2 serve the defendant and his attorney here in court with the
3 papers, the affirmation and the memo of law.

4 I can go more into what is in the papers. I can
5 leave it to your Honor to review the papers and get into
6 that.

7 THE COURT: You can go a little bit further into
8 it. Maybe if you can direct me to what you believe the
9 three violations were.

10 MR. CONROY: Sure.

11 One of them is one what Mr. Steinglass talked
12 about earlier, on April 10th the defendant reposted a
13 social media post from Michael Avenatti, the former lawyer
14 for Stormy Daniels. In that post, that post itself attacks
15 Stomy Daniels and Michael Cohen, both of whom are known to
16 be reasonably foreseeable witnesses in this case for
17 various statements they made, or they have made in the
18 past. Defendant introduced his repost of Avenatti's
19 message by thanking Avenatti for revealing the truth about
20 "two sleaze bags who have, with their lies and
21 misrepresentations, cost our country dearly." This is
22 clearly a post about the participants in this proceeding,
23 and by posting this, the defendant violated that order on
24 April 1st.

25 The second post is the same day, a little bit

1 later, maybe half and hour later. It's a photograph of a
2 publically available statement from 2018 by Stormy Daniels
3 in which she denies an affair with the defendant. The
4 defendant writes in the post, "Look what was just found.
5 Will the fake news report it?" In making this post, the
6 defendant again violates the April 1st order.

7 The third post that we're asking for in the
8 papers, Judge, is a post a couple of days later, actually
9 two days ago, on April 13th. It references a former
10 Special ADA, and the defendant says "Has disgraced
11 attorney and felon Michael Cohen been prosecuted for
12 lying," all in caps. "Only Trump people get prosecuted by
13 this judge and the thugs. A dark day for our country.
14 MAGA 2024."

15 Judge, the defendant is aware of the April 1st
16 order. We know that from various posts he has made.
17 The day after the order, he posted on his Truth Social
18 account, "I was just informed that another corrupt New York
19 Judge Juan Merchan gagged me so I cannot talk about the
20 corruption and the conflict taking place in this courtroom
21 with respect to a case that everyone, including the DA
22 felt should never have been brought. They can talk about
23 me, but I can't talk about them." There he is clearly
24 referencing the witnesses in this case.

25 As you will see in our papers, we will

1 establish -- we can establish that the defendant controls
2 the active Donald Trump Truth Social account. He has
3 repeatedly referred to his knowledge of the April 1st order
4 on Truth Social since the order was issued. And we're
5 asking the court to issue this order to show cause.

6 Again, I note that what is not included is another
7 post from this morning. We think that it is important
8 for the court to remind Mr. Trump that he is a criminal
9 defendant, and like all criminal defendants, he is subject
10 to court supervision and, in particular, this court's
11 obligation to preserve the integrity of the Criminal
12 Justice System.

13 You issued the order, your Honor, and the
14 defendant has demonstrated his willingness to flout the
15 order. He has attacked witnesses in the case in the past.
16 He has attacked Grand Jurors and jurors, and we're asking
17 the court to issue the order to show cause so that we can
18 deal with this flouting of the order.

19 Thank you.

20 MR. BLANCHE: Your Honor, we very much want an
21 opportunity to respond in writing to what was Mr. Conroy
22 just said in the papers that we have not seen.

23 To be clear, we very much believe that the three
24 posts that were just referenced did not violate the gag
25 order.

1 As the court is aware from our papers but also
2 from what has been reported repeatedly by the media, the
3 two witnesses themselves have been talking about their
4 testimony in this case, President Trump's ongoing
5 reelection, and just generally disparaging threats to
6 constantly. One of the witnesses multiple times a week,
7 and the other one frequently. These limited responses to
8 this barrage of attacks do not deal with their expected
9 testimony in this case. You know, it's not as if President
10 Trump is going out and targeting individuals. He's
11 responding to salacious repeated demon attacks by these
12 witnesses. So we very much want an opportunity to explain
13 to court why this is not a violation of the gag order, your
14 Honor.

15 THE COURT: You will have an opportunity in
16 writing. I will take this upstairs with me over the lunch
17 recess.

18 When you respond directly to any portion of the
19 original gag order or the subsequent gag order that says
20 that there is an exception to the gag order, that Mr. Trump
21 feels if he is being attacked, I don't recall inserting
22 that anywhere in either gag order.

23 I am told that the jurors have been excused for
24 lunch. They'll be back at 1:45. So I will ask you all to
25 come back here at 1:30.

1 Enjoy your lunch.

2 MR. BLANCHE: What time?

3 THE COURT: One-thirty.

4 (Whereupon, the Court took a luncheon recess.)

5 ***

6 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

7 THE COURT: Good afternoon.

8 Mr. Conroy, I signed the order to show cause, and
9 you can serve them at your convenience.

10 Just so everyone knows, I will hear this on
11 Wednesday the 24th, at 2:15 in the afternoon, and the
12 defense papers are due no later than April 19th.

13 MR. CONROY: If it's all right, I would ask the
14 court officer to actually serve a copy on Mr. Trump and a
15 copy on Mr. Blanche here in the courtroom.

16 THE COURT: Let the record reflect that Mr.
17 Blanche has just taken it from my hand and handed a copy to
18 Mr. Trump.

19 MR. CONROY: Thank you.

20 MR. BLANCHE: Just two housekeeping matters, if
21 now is a good time.

22 THE COURT: I want to go over a slight change in
23 what I had proposed regarding jury selection. I am
24 concerned that going into the jury room with an individual
25 juror surrounded by all of these people is just going to be

1 overly intimidating to that juror. So what we're going to
2 do is, when the time comes to speak individually with
3 jurors, we're going to excuse those jurors that are in the
4 courtroom. We're going to excuse those that are in the
5 box. They will go down to the central jury room on the
6 15th floor and we will ask the juror to speak to us from
7 the podium. I will make clear to the jury that when we say
8 "speak personally," we're literally talking about a
9 courtroom with attorneys, defense attorneys, prosecutors,
10 the press in the back. There is not a whole lot of
11 privacy, and I don't know that that may discourage some
12 people from being entirely open. I am sure that is one of
13 the issues that you discussed with your client.

14 Right?

15 MR. BLANCHE: You didn't tell us the procedure
16 until right now.

17 THE COURT: It's going to be even more
18 intimidating the other way.

19 MR. BLANCHE: I did discuss that with President
20 Trump prior to that, but I haven't discussed this exact
21 issue with him.

22 THE COURT: Would you like to discuss it with him
23 now. If I may, just to help him understand that we want to
24 know who we're getting on this jury and anything that we do
25 that discourages jurors from being one hundred percent open

1 kind of cuts against that.

2 So speak to him again, if you could, please.

3 MR. BLANCHE: Before I speak with President Trump,
4 your Honor, is the issue with going to the jurors'
5 deliberation room just the sheer number of people, and
6 perhaps an alternative to doing it in open court is not
7 having as many folks go back. My understanding is,
8 President Trump will only require one Secret Service agent
9 to go back there, and then so I just wonder if there is
10 something --

11 THE COURT: How many attorneys will go back?

12 MR. BLANCHE: When I spoke before, I said we would
13 need seven people all together, including President Trump
14 and the Secret Service agent.

15 THE COURT: You would need seven people. How many
16 would the People need?

17 MR. STEINGLASS: In a perfect world, all five of
18 us.

19 THE COURT: Right there we're talking 12 people,
20 and that doesn't include the Court Reporter, it doesn't
21 include me, it doesn't include clerks. The room obviously
22 is designed to hold 12 people comfortably. We're well over
23 that number. I think that we're going to have to do it
24 here in court.

25 MR. BLANCHE: Okay.

1 If I could have one moment with President Trump.

2 THE COURT: Sure.

3 (Brief pause.)

4 MR. BLANCHE: Thank you, your Honor.

5 We have discussed it and our position remains the
6 same.

7 THE COURT: Okay. Very well. I did hold on to
8 one copy of this, if that's okay.

9 Yes, People.

10 MR. STEINGLASS: Judge, there are two remaining
11 matters that we would like to address. The first is
12 Sandoval. We provided notice of the items we seek to ask
13 about on March 10th. The defendant requested leave to file
14 a brief. The court gave them until April 5th to do so, but
15 they never did. We are prepared to do a Sandoval hearing
16 now, later or whatever the court desires.

17 THE COURT: We can start now, but as soon as the
18 jury panel is ready, we're expecting a panel of 96, as soon
19 as they're ready, I would like to bring them in rather than
20 keeping them waiting.

21 MR. STEINGLASS: That's fine. Perhaps, in the
22 alternative, rather than do part of the Sandoval, the court
23 would like to take up the other issue, which will take five
24 minutes.

25 THE COURT: Sure.

1 MR. STEINGLASS: On February 15th, during our
2 appearance on this matter, there was extensive argument on
3 the issue of the defendant's failure to designate any
4 exhibits. The defense argued that their discovery
5 obligations in this regard are merely responsive. The
6 court roundly rejected that argument in the order, dated
7 February 22, 2024. In that order the court wrote,
8 "Defendant is hereby directed to immediately comply fully
9 with his reciprocal discovery obligations pursuant to CPL
10 Section 245.20, sub 4. Defendant is reminded of the
11 requirements for the filing of certificate of compliance
12 pursuant to CPL Section 245.50. Defendant is further
13 reminded of the remedies available to this court for
14 noncompliance pursuant to CPL 245.80, which include, among
15 other things, preclusion of evidence."

16 Amazingly, it's been seven weeks since that order
17 and we have yet to receive a single designated exhibit nor
18 has the defense filed a supplemental certificate of
19 compliance. Trial is now upon us. The jury is in the
20 hallway. Preclusion is already appropriate.

21 However, what we're asking for, is that this
22 court order that any defense exhibits not designated
23 within 24 hours of this moment be precluded. This should
24 include any exhibits that they tried to introduce through a
25 witness they make their own by asking questions on

1 cross-examination that are beyond the scope of the direct
2 because those are case in chief exhibits.

3 THE COURT: Mr. Blanche.

4 MR. BLANCHE: Your Honor, we are aware of the
5 court's order. We also are, as the court is aware, of the
6 exhibit list that the People have identified, and it's
7 changed dramatically since February to now. But the
8 exhibits that they have identified first as being part of
9 the Grand Jury, but more recently as part of the exhibit
10 list, are certainly exhibits that we intend to use. To
11 the extent there is an exhibit that we haven't identified
12 yet because we don't know what the witness is going to say
13 on cross, we may want to impeach that witness with that,
14 that certainly is not part of our order. We don't know
15 what the witness is going to say yet. So we're aware of
16 the court's order. We're aware of our obligations.

17 One final thing, as the court is aware, we
18 received a tremendous amount of material from the Southern
19 District of New York. We are continuing to go through
20 that. And so to the extent there are emails that we just
21 received that we intend to use, as the People just
22 suggested, beyond impeachment, and actually in our case in
23 chief, we will, of course, alert the People immediately to
24 when we formally intend to use them. We just got those
25 emails a few weeks ago, a month ago.

1 MR. STEINGLASS: The volume of materials that they
2 got has not prevented them from filing thousands and
3 thousands of pages of frivolous motions and exhibits.
4 It was manifestly possible for this robust defense team to
5 have decided before we're bringing the jury in what
6 exhibits they intend to use on their case in chief,
7 including the Southern District's document dump. We did,
8 and they could have. But they didn't for tactical reasons.
9 They should not be heard now to complain that they didn't
10 have enough time to go through those exhibits that they
11 have had for more than a month.

12 MR. BLANCHE: That's completely false. The fact
13 that the People label the motion as frivolous, the fact
14 that we're going to litigate the case and prepare for trial
15 with the materials that we have and prepare for
16 cross-examination and prepare for our defenses and then
17 insert on top of that 200,000 pieces of paper that we just
18 recently received, it's absolutely wrong it was a tactical
19 decision by us.

20 THE COURT: Here's where we stand, you have 24
21 hours, and whatever you do not identify within 24 hours,
22 you will be precluded from introducing, frivolous or not.
23 The defense team was very busy actively filing numerous
24 motions, some of which were really motions to renew and
25 reargue decisions that this court had already made. You

1 also brought three Article 78's, or two Article 78's and
2 the third a special proceeding, including one that sought a
3 ruling on the recusal issue which was still pending before
4 me. So you have made decisions regarding how you are going
5 to use your time, and that's fine. That's your decision
6 to make. You have 24 hours. Whatever is not received by
7 the People in 24 hours will be precluded. Period.

8 MR. BLANCHE: May I ask that we have until the end
9 of the day Wednesday and not tomorrow?

10 THE COURT: What was the date of your order?

11 MR. STEINGLASS: The date of your order, February
12 22nd, and it said immediately.

13 THE COURT: It said immediately. That's almost
14 two months. No, you have 24 hours.

15 MR. BLANCHE: Since that time we received 200,000
16 pieces of paper.

17 THE COURT: Let's not go over the 200,000 pieces
18 of paper. We know it's not really 200,000 pieces of paper.
19 That's my decision.

20 MR. BLANCHE: We're expected to comply while we're
21 in court the rest of the day, tomorrow and all day
22 tomorrow?

23 THE COURT: Well, I don't know how you are
24 planning to get all those motions out. Literally one
25 Sunday you got three pre-motion letters to me with exhibits

1 and attachments all within 30 minutes. The way you choose
2 to use your time is your business. My order was clear, you
3 are directed to do it and you are directed to do it
4 immediately. I am giving you 24 hours. Right now you are
5 already in violation of the order. I could preclude you
6 now. I am giving you 24 hours.

7 MS. NECHELES: Could I just ask for clarification.
8 In your Honor's order you said on the direct case, which I
9 have always understood. And in the last case we understood
10 it to be on the defense case. The direct case is the
11 defense case. What Mr. Steinglass just said is what we
12 intend to use on cross. Your Honor was very clear when we
13 discussed this last time that we do not need to designate
14 things that we intend to use on cross, and that is why we
15 have not designated anything.

16 THE COURT: Let's not argue this issue again. I
17 understand your point that the statute, you believe, is
18 responsive, and in a way it is responsive in that you don't
19 have to mark what you expect you are going to use on
20 cross-examination. So we're in agreement. But you do have
21 to identify and mark what you intend to use on your direct
22 case, and that's what this applies to.

23 MS. NECHELES: We have no problem with that.

24 Thank you.

25 THE COURT: You had also mentioned a separate set

1 of documents that would be introduced on cross.

2 MR. STEINGLASS: Actually, what I said, Judge,
3 let's say that we call the custodial witness to put in
4 certain documents, and they want to make that witness their
5 own, to put in their own documents, those are not cross
6 documents. Those are case in chief documents. If they're
7 making the witness their own, not to introduce documents
8 that are not responsive to the court, the court may not
9 make them call the custodial witness on their case if the
10 custodian is already here, but it does not mean that
11 they're allowed to introduce. As far as I am concerned,
12 those are case in chief exhibits. If they seek to make our
13 witness their own, this rule should apply to that as well.
14 Those are case in chief exhibits.

15 MS. NECHELES: We never heard the word "case in
16 chief" up until today. When Mr. Steinglass argued this
17 before, it was always clear your Honor said exactly what
18 you just said now. Anything we intend to put in on cross,
19 we're allowed to do, we do not need to designate. Now
20 he's changing the goal post. He wants to make a new rule,
21 which is nowhere in the CPL. He is making up a rule. He
22 can't just do that all of a sudden and say we have 24
23 hours to produce stuff we were never ordered to produce.
24 We are not required to designate it by the CPL. He is
25 making up the rule. That's what we're objecting to, your

1 Honor.

2 THE COURT: I don't think that is what Mr. Blanche
3 was objecting to. I understand your point.

4 MS. NECHELES: Thank you.

5 THE COURT: I will deal with it when it comes up.
6 All right.

7 MR. BLANCHE: Just two housekeeping matters.

8 The first is, your Honor, this morning when we
9 served and provided a hard copy to chambers to your Honor
10 of a pre-motion letter on just seeking clarification on
11 one issue on the motion in limine, and then we also left
12 you a copy of the motion to compel with respect to Ms.
13 Clifford, we will email those to you as well. I just
14 wanted to let you know.

15 Second, just to question, I don't think the People
16 know the answer to this either, when are the counsel for
17 the parties getting the names of the jurors and how are we
18 getting them?

19 THE COURT: So we're working all this out.
20 Obviously, we're all figuring this out as we go. Once we
21 know who the 96 jurors are that are coming in, I will be
22 handed two lists. One list will contain their number and
23 another list will contain the number and the name. I am
24 going to, at that point, I will hand each of you one copy,
25 one copy of the list with the names and the numbers.

1 I am directing you now, that copy is not to be
2 photographed, duplicated in any way, copied in any way,
3 shape or form.

4 And when we're done with these 96 jurors, we're to
5 return that copy to me. You can have as many copies of
6 this sequential list as you want. If you want five or
7 seven or ten, that's fine, that doesn't matter to me. But,
8 again, the list with the names, you get one only. And when
9 we're done with the 96, you return it. I will get those
10 lists when the jurors are brought up so you know who the 96
11 are.

12 So for the time being you can take up your
13 arguments and sit down tight and wait for the jurors.

14 MR. STEINGLASS: You mean the Sandoval argument?

15 THE COURT: Yes.

16 MR. STEINGLASS: We have provided notice of all
17 the materials we seek to use on Sandoval along with
18 supporting documentation. We can provide that to the court
19 as well. We served it a month ago, and we can provide that
20 to the court. I believe it's their application.

21 THE COURT: If you happen to have an application,
22 I would appreciate it.

23 Do you have an application regarding Sandoval?

24 MR. BLANCHE: We do, your Honor. The
25 preference would be not do it right before the jury walks

1 in in two minutes. There are a lot of different areas.

2 THE COURT: That's fine.

3 MR. BLANCHE: Our preference is to do it at a
4 later date.

5 THE COURT: How long do you think the Sandoval
6 hearing will take because we may want to do it Wednesday
7 afternoon?

8 MR. STEINGLASS: I think that is a good idea, your
9 Honor. I don't want to put a timeframe on it, but there
10 are several different categories, different arguments with
11 respect to our observations to each type of each category.
12 So I don't know whether it's an hour or longer, but
13 certainly long enough that with jury selection, it may be
14 difficult to schedule.

15 THE COURT: If we start at 9:30 tomorrow, we can
16 do it.

17 While we wait for the jurors, I did want to ask
18 you please to not encourage jurors to seek out private
19 conversations. In my experience, once one juror has the
20 opportunity to come up to the bench, everybody wants to
21 come up to the bench. And so if someone says, I want to
22 talk to the Judge in private, that's fine. That's
23 different from actually encouraging them to seek out that
24 opportunity. I would rather avoid that.

25 Also, as I said before, I will inform them that

1 private is a relative term. There would still be a number
2 of people in the courtroom.

3 I am told we have 96 jurors ready to come in. I
4 am going to hand you now six copies of the sheets with just
5 the numbers and one copy with the sheet with the numbers
6 and the names. I am told that there is a total of about
7 200 jurors actually physically here today.

8 Counsel from the District Attorney's office and
9 from the defense, please come up so I can hand you the
10 copies.

11 MR. BLANCHE: Yes, sir.

12 THE COURT: Let the record reflect that counsel
13 has been handed copies.

14 Also, before we bring the jurors in, regarding
15 the order to show cause, I originally indicated a return
16 date for a hearing date of April 24th at 2:15. That
17 would be a week from Wednesday at 2:15. Please note that I
18 am changing that to April 23rd at 9:30. Instead of
19 Wednesday, it will be Tuesday. And instead of 2:15, it
20 will be 9:30.

21 Major, whenever you are ready, you may bring the
22 prospective jurors in.

23

24 (Continued on following
25 page by Vincent Gerald.)

1 THE COURT: Jurors entering.

2 (At this time, the panel of prospective jurors
3 entered the courtroom)

4 THE CLERK: Can all of the prospective jurors
5 please stand and raise your right hand.

6 Do you solemnly swear or affirm that you will
7 truthfully answer all questions put to you relevant to your
8 qualifications to serve as jurors in the case of
9 The People of the State of New York against
10 Donald J. Trump? Do you swear or affirm?

11 (AFFIRMATIVE RESPONSE FROM PROSPECTIVE JURORS)

12 THE CLERK: Thank you.

13 You may be seated.

14 THE COURT: Good afternoon, jurors.

15 Welcome to New York County Supreme Court,
16 Part 59.

17 My name is Juan Merchan. I'll be the judge
18 presiding over this matter.

19 Some of you are about to be selected as jurors
20 for a trial in a criminal case. I'm about to explain to
21 you what the trial involves, what your role will be, and
22 what my role will be. These introductory instructions will
23 take about 30 minutes.

24 Before I continue, I do want to thank all of you
25 for being here.

1 You're about to participate in a trial by jury.
2 Our system of trial by jury is one of the cornerstones of
3 our judicial system. Under that system, members of the
4 community, just like you, are asked to determine whether
5 the person who has been accused of committing a crime is
6 actually found guilty or not guilty of the commission of
7 that crime.

8 The name of this case is The People of the
9 State of New York versus Donald Trump. The words
10 "People of the State of New York" in the title mean the
11 government of the State of New York.

12 The fact that this action is brought in the name
13 of the People or that the evidence is presented by a public
14 official does not, in any way, indicate that the public
15 wants a specific verdict. The People are served by
16 whatever verdict is justified by the evidence.

17 The People--that is, the government--is
18 represented by the District Attorney of New York County,
19 Alvin Bragg. He, in turn, is represented in this action by
20 Assistant District Attorney Joshua Steinglass,
21 Susan Hoffinger, Matthew Colangelo, Christopher Conroy,
22 Becky Mangold, and Katherine Ellis, who are all seated to
23 my right.

24 MR. STEINGLASS: Good afternoon.

25 THE COURT: The defendant in this case is

1 Mr. Donald Trump, who is seated to my right.

2 He, in turn, is represented by his
3 attorneys--Todd Blanche, Emil Bove, Susan Necheles, and
4 Gedalia Stern.

5 MS. NECHELES: Good afternoon.

6 THE COURT: The defendant, Donald Trump, is
7 charged with 34 counts of Falsifying Business Records in
8 the First Degree.

9 The allegations are, in substance, that
10 Donald Trump falsified business records to conceal an
11 agreement with others to unlawfully influence the 2016
12 presidential election. Specifically, it is alleged that
13 Donald Trump made or caused false business records to hide
14 the true nature of payments made to Michael Cohen by
15 characterizing them as payments for legal services rendered
16 pursuant to a retainer agreement. The People allege that,
17 in fact, the payments were intended to reimburse
18 Michael Cohen for money he paid to Stephanie Clifford, who
19 is also known as Stormy Daniels, in the weeks before the
20 presidential election to prevent her from publicly
21 revealing details about a past sexual encounter with
22 Donald Trump.

23 Mr. Trump has pleaded not guilty and denies these
24 allegations.

25 At the end of the trial, I will give you detailed

1 instructions on the crimes charged. It is upon those
2 instructions that you must base your decision. I have
3 given you this brief description of the charges only for
4 the purpose of allowing you to consider whether there is
5 anything about the nature of the charges that would affect
6 your ability to be a fair and impartial juror. You are not
7 to use the description that I have just given to you for
8 any other purpose.

9 This case comes to us by way of an indictment.
10 An indictment is a document that contains an accusation.
11 Neither the indictment itself nor the fact that the
12 indictment has been filed constitutes evidence. The
13 indictment has been filed against the defendant and the
14 defendant has answered that he is not guilty of the
15 accusation. The trial, therefore, is to be conducted for
16 you to decide whether the defendant is guilty or not
17 guilty.

18 A jury is composed of 12 people. In addition to
19 the 12 jurors, we will also select alternate jurors. An
20 alternate juror is one who may serve in place of one of the
21 first 12 jurors should an unforeseen and extraordinary
22 emergency arise that makes it totally impossible for one of
23 the first 12 jurors to complete the trial.

24 The first person called who is sworn as a juror
25 will serve as the jury's foreperson.

1 If you have participated in jury selection in a
2 criminal case before, you may notice that the method of
3 jury selection varies from judge to judge but the essence
4 of each procedure is the same. It involves a combination
5 of explanations of the law and questions all designed to
6 help each of you as well as the lawyers decide whether you
7 could sit as a juror in this case and be fair in judging
8 whether the defendant is guilty or not guilty of a charged
9 crime.

10 My jury selection procedure is as follows:

11 First, I will explain some of the basic law that
12 applies to this case and all criminal trials. I do this,
13 in part, because, if you are selected as a juror, you will
14 be required to follow the law whether you agree with the
15 law or not.

16 Following that, the preliminary instructions, I
17 will ask, by a show of hands, whether any of you believe
18 that you cannot serve on this jury. I will provide more
19 information about that in a minute.

20 Third, the clerk of the court will call at random
21 the names of 18 jurors or the numbers of 18 jurors who will
22 take a seat in the area to my left, which is called the
23 jury box. Those jurors will be handed a questionnaire. I
24 will then ask the jurors in the jury box to answer the
25 questions aloud in narrative form. Then, each lawyer will

1 address the jurors in the jury box for approximately
2 30 minutes.

3 Finally, all of the jurors will be asked to step
4 out for a few minutes. During that time, the lawyers will
5 be given an opportunity, as required by our law, to excuse
6 one or more of the jurors in the jury box. Those jurors
7 who are not excused become members of the jury. We repeat
8 that process until we select our entire jury and our
9 alternate jurors.

10 Again, the purpose of a trial is for a jury to
11 decide, on the basis of evidence presented in a courtroom,
12 whether a person who's accused of a crime by the government
13 is guilty or not guilty of the commission of that crime.

14 The jury's responsibility is to evaluate fairly
15 the testimony and other evidence presented at the trial in
16 order to judge what the believable and accurate facts are,
17 if any. The jury is, therefore, also known as the finders
18 of the facts or the judges of the facts.

19 After the jury has found or judged the facts, the
20 jury must apply the law as I explain it to those facts and
21 decide, without favor, bias, prejudice, sympathy, or
22 consideration of a possible sentence or punishment, whether
23 the People have proven the defendant guilty beyond a
24 reasonable doubt.

25 In your deliberations, you may not consider or

1 speculate about matters relating to sentence or punishment.
2 If there is a verdict of guilty, it will be my
3 responsibility to impose an appropriate sentence.

4 In reaching a verdict of guilty or not guilty,
5 the jury must be fair. It's important, therefore, for you
6 to know what makes a person a fair juror so that you could
7 decide whether or not you can be a fair juror in this
8 particular case.

9 A fair juror is a person who will accept and
10 apply the law of New York as I explain it.

11 A fair juror is a person who has no bias or
12 prejudice in favor of or against a party or any witness,
13 whether the witness is involved in law enforcement or not.

14 A fair juror is a person who will keep the
15 promise to be fair and impartial and will not base the
16 decision in this case upon a bias or prejudice in favor of
17 or against the person who may appear in this trial on
18 account of that person's race, color, national origin,
19 ancestry, gender, gender identity or expression, religion,
20 religious practice, age, disability, sexual orientation, or
21 political affiliation.

22 A fair juror must be mindful of any stereotypes
23 or attitudes about people or about groups of people that a
24 juror may have and must not allow those stereotypes or
25 attitudes to affect their decision.

1 As you learned from the video presentation you
2 saw during the orientation, we all develop and hold
3 unconscious views on many subjects. Some of those
4 unconscious views may come from stereotypes and attitudes
5 about people or about groups of people that may impact on a
6 person's thinking and decision-making without that person
7 even knowing it. As a juror, you are asked to make a very
8 important decision about another person. I know you would
9 not want to make that decision based on such stereotypes or
10 attitudes--that is, on what we refer to as implicit
11 bias--and it would be wrong for you to do so.

12 A fair juror must guard against the impact of
13 such stereotypes or attitudes. You could do this by asking
14 yourselves during your deliberations whether your views and
15 conclusions would be different if the defendant, witnesses,
16 or others that you have heard about or seen in court were
17 of a different race, color, national origin, ancestry,
18 gender, gender identity or expression, religious practice,
19 age, sexual orientation, political affiliation, or if they
20 did not have a disability. If the answer is "yes," then,
21 in keeping with your promise to be fair, reconsider your
22 views and conclusions along with the other jurors and make
23 sure your decision is based on the evidence and not on
24 stereotypes or attitudes. Justice requires no less.

25 A fair juror is a person who will, therefore,

1 base his or her decision solely on the testimony and other
2 evidence presented at this trial and will not make a final
3 decision on the verdict until the end of the case--after
4 the juror has heard all the testimony and other evidence,
5 has heard the lawyers' summations, has heard the Court's
6 final instructions on the law, and has had an opportunity
7 after all of that to discuss the evidence with the other
8 jurors and to consider their views.

9 Finally, a fair juror is a person who, without
10 fear, favor, bias, prejudice, or sympathy for either the
11 People or the defendant or any witness, renders a verdict
12 of guilty or not guilty the juror is convinced is
13 consistent with that juror's honest evaluation of the
14 testimony and other evidence and that juror's honest
15 application of the law.

16 My role is to help assure a fair and orderly
17 trial in accordance with our law. I do that by presiding
18 over the trial; deciding questions of law that arise
19 between and among the parties; and explaining to you, the
20 jury, as I'm doing right now, what the law is that the jury
21 must accept and follow.

22 As we're both judges in this case, it's important
23 to recognize that we judge different things. You, the
24 jury, judge the facts of the case in order to reach a
25 verdict of guilty or not guilty and I judge the

1 law--meaning that I decide questions of law and I instruct
2 the jury on the law.

3 It is not my responsibility to judge the facts
4 here. I do not decide whether the defendant is guilty or
5 not guilty. You alone are the judges of the facts and you
6 alone are responsible for deciding whether the defendant is
7 guilty or not guilty. So, nothing I say or how I say it
8 and no ruling I make on the law is intended to be nor
9 should it be considered by you as an expression of my
10 opinion on the facts of the case or of whether the
11 defendant is guilty or not guilty.

12 We now turn to the fundamental principles of our
13 law that apply in all criminal trials--the presumption of
14 innocence, the burden of proof, and the requirement of
15 proof beyond a reasonable doubt.

16 Throughout these proceedings, the defendant is
17 presumed to be innocent. As a result, you must find the
18 defendant not guilty unless, on the evidence presented at
19 this trial, you conclude that the People have proven the
20 defendant guilty beyond a reasonable doubt.

21 That a defendant does not testify as a witness is
22 not a factor from which any inference unfavorable to the
23 defendant may be drawn.

24 A defendant is not required to prove that he is
25 not guilty. In fact, the defendant is not required to

1 prove or disprove anything. The People have the burden of
2 proving the defendant guilty beyond a reasonable doubt.
3 That means, before you can find the defendant guilty of a
4 crime, the People must prove beyond a reasonable doubt
5 every element of the crime including that the defendant is
6 the person who committed that crime.

7 The burden of proof never shifts from the People
8 to the defendant. If the People fail to satisfy their
9 burden of proof, you must find the defendant not guilty.
10 If the People satisfy their burden of proof, you must find
11 the defendant guilty.

12 What does our law mean when it requires proof of
13 guilt beyond a reasonable doubt?

14 The law uses the term "proof beyond a reasonable
15 doubt" to tell you how convincing the evidence of guilt
16 must be to permit a verdict of guilty. The law recognizes
17 that, in dealing with human affairs, there are very few
18 things in this world that we know with absolute certainty.
19 Therefore, the law does not require the People to prove the
20 defendant guilty beyond all possible doubt. On the other
21 hand, it is not sufficient to prove that the defendant is
22 probably guilty. In a criminal case, the proof of guilt
23 must be stronger than that. It must be beyond a reasonable
24 doubt.

25 A reasonable doubt is an honest doubt of the

1 defendant's guilt for which a reason exists based upon the
2 nature and the quality of the evidence. It is an actual
3 doubt, not an imaginary doubt. It is a doubt that a
4 reasonable person acting in a matter of this importance
5 would be likely to entertain because of the evidence that
6 was presented or because of the lack of convincing
7 evidence. Proof of guilt beyond a reasonable doubt is
8 proof that leaves you so firmly convinced of the
9 defendant's guilt that you have no reasonable doubt of the
10 existence of any element of the crime or of the defendant's
11 identity as the person who committed that crime.

12 In determining whether the People have proven the
13 defendant's guilt beyond a reasonable doubt, you should be
14 guided solely by a full and fair evaluation of the
15 evidence. After carefully evaluating the evidence, each of
16 you must decide whether that evidence convinces you beyond
17 a reasonable doubt of the defendant's guilt.

18 Whatever your verdict may be, it must not rest
19 upon baseless speculation nor may it be influenced in any
20 way by bias, prejudice, sympathy, or by a desire to bring
21 an end to your deliberations or to avoid an unpleasant
22 duty. Again, if you are not convinced beyond a reasonable
23 doubt that the defendant is guilty of a charged crime, you
24 must find the defendant not guilty of that crime. If you
25 are convinced beyond a reasonable doubt that the defendant

1 is guilty of a charged crime, you must find the defendant
2 guilty of that crime.

3 As judges of the facts, you alone determine the
4 truthfulness and accuracy of the testimony of each witness.
5 You must decide whether a witness told the truth and was
6 accurate or, instead, testified falsely or was mistaken.
7 You must also decide what importance to give to the
8 testimony that you do accept as truthful and accurate.

9 It is the quality of the testimony that is
10 controlling, not the number of witnesses who testify.

11 There is no particular formula for evaluating the
12 truthfulness and accuracy of another person's statement or
13 testimony. You bring to this process all of your varied
14 life experiences. In life, you frequently decide the
15 truthfulness and accuracy of statements made to you by
16 other people. The same factors used to make those
17 decisions should be used in this case in evaluating the
18 testimony. I will instruct you further on this subject at
19 the end of the trial.

20 In this case, you may hear the testimony of law
21 enforcement personnel or investigators. The testimony of a
22 witness should not be believed solely and simply because
23 the witness is a law enforcement officer. At the same
24 time, a witness' testimony should not be disbelieved solely
25 and simply because a witness is a law enforcement officer.

1 In other words, you must not believe or disbelieve a law
2 enforcement officer or investigator just because he or she
3 is a law enforcement officer. You must listen to a law
4 enforcement officer's testimony just like you would listen
5 to any other witness. You must evaluate the testimony for
6 truthfulness and accuracy the same way you would evaluate
7 the testimony of any other witness.

8 Your verdict, whether guilty or not guilty, must
9 be unanimous--that is, each and every juror must agree to
10 it. Since 12 people seldomly agree immediately on
11 anything, to reach a unanimous verdict, you must deliberate
12 with the other jurors. That means you should discuss the
13 evidence and consult with each other, listen to each other,
14 give each other's views careful consideration, and reason
15 together when considering the evidence.

16 When you deliberate, you should do so with a view
17 towards reaching an agreement, if that could be done
18 without surrendering your individual judgment. Each of you
19 must decide the case for yourself, but only after a fair
20 and impartial consideration of the evidence with the other
21 jurors. You should not surrender an honest view of the
22 evidence simply because you want the trial to end or
23 because you're outvoted. At the same time, you should not
24 hesitate to reexamine your views or change your opinion if
25 you become convinced that it is not correct.

1 The attorneys have informed me that they expect
2 this trial to last approximately six weeks. Please bear in
3 mind that this is just an estimate. We will do our best to
4 adhere to that schedule, but I cannot predict exactly how
5 long the trial will last. For example, I do not know how
6 long jury deliberations will take. I've had trials where
7 deliberations took less than an hour and I've had trials
8 where a jury deliberated for many days.

9 In terms of our schedule, I can tell you that we
10 will not convene on Wednesdays. The trial will be
11 conducted on Mondays, Tuesdays, Thursdays, and Fridays. We
12 will also not convene on Monday, April 29th.

13 The last note on scheduling:

14 I am aware that we are approaching Passover.
15 Rest assured, if you observe the Passover Holiday, the
16 Court will not convene on any date when a juror is unable
17 to attend due to religious observance. Again, you do not
18 have to choose between observing the holiday and sitting as
19 a juror on this case. I will work around your needs
20 whether it means not meeting on one or more days or
21 breaking at 2:00 in the afternoon. Just let me know what
22 your needs are--we'll start with the Passover Holiday--and
23 we will work it out.

24 The attorneys have given me the names of
25 witnesses they expect to call to the stand during the

1 course of the trial as well as the names you may hear
2 mentioned during the course of the trial. Please listen to
3 the names. I'm going to read them to you in a few minutes.
4 You will be given an opportunity later on to let me know
5 whether you recognize or know any of these people:

6 Stephen Bannon.

7 Donald Trump.

8 Sharon Churcher.

9 Michael Cohen.

10 Kellyanne Conway.

11 Robert Costello.

12 Doug Daus, D-A-U-S.

13 Stormy Daniels.

14 Keith Davidson.

15 Sheri Dillon.

16 Gary Farro.

17 Alan Garten.

18 Rudy Giuliani.

19 Rhona Graff.

20 Hope Hicks.

21 Dylan Howard.

22 DeWitt Hutchins.

23 Jaden Jarmel-Schneider.

24 Marc Kasowitz.

25 Jared Kushner.

1 Georgia Longstreet-Joseph.
2 Rebecca Manochio.
3 Jeffrey McConney.
4 Karen McDougal.
5 John McEntee, M-C-E-N-T-E-E.
6 Adav, A-D-A-V, Noti, N-O-T-I.
7 David Pecker.
8 Reince Priebus.
9 Gina Rodriguez.
10 Jeremy Rosenberg.
11 Dino Sajudin, S-A-J-U-D-I-N.
12 Dan Scavino.
13 Keith Schiller.
14 Bradley A. Smith.
15 Cameron Stracher, S-T-R-A-C-H-E-R.
16 Deborah Tarasoff.
17 Donald Trump Jr.
18 Ivanka Trump.
19 Melania Trump.
20 Eric Trump.
21 Allen Weisselberg.
22 Madeleine Westerhout, W-E-S-T-E-R-H-O-U-T.
23 Again, these are not all going to be witnesses.
24 Some of them will be and some of them will simply be
25 mentioned from the stand during the course of the trial.

1 Now that you've heard my preliminary instructions
2 and some basic information about this case, if you have an
3 honest, legitimate, and good-faith reason to believe that
4 you cannot serve on this case or that you cannot be fair
5 and impartial based solely upon what you've heard up until
6 this point, please let me know now. Please do not wait
7 until after you have been selected as a juror to tell me
8 that you cannot serve or that you cannot be fair and
9 impartial. The law gives me much greater discretion to
10 excuse prospective jurors than it does to excuse sworn
11 jurors.

12 Having said that, please be advised that simply
13 having work, school, or childcare responsibilities alone,
14 without more, will not suffice to excuse you from jury
15 duty. Jury duty may, at times, be inconvenient, but,
16 without more, we will not excuse you.

17 As I mentioned a few minutes ago, if you observe
18 Passover, we will not convene on any day or time that
19 conflicts with your observance of the Passover Holiday.

20 Again, based solely upon what you've heard up to
21 this point, if you do not believe that you could be fair
22 and impartial, I'm going to ask you to let me know now.

23 The way we're going to do this is we're going to
24 go row by row beginning with the jury box. When a
25 court officer gets to your row, please raise your hand and

1 keep it raised until the officer has obtained your
2 juror identification number. It will take a few minutes to
3 go through all the jurors, but it's a necessary process to
4 make sure we remove your name from the ballot drum.

5 I will ask that you all please remain seated
6 during this time. I thank you for your patience.

7 We're going to do this in two stages. First, I'm
8 going to ask those of you who believe you cannot be fair
9 and impartial to raise your hand. Once we're done with
10 that group, I will ask if there is any reason why you
11 cannot serve for any other reason. Then, you will be given
12 an opportunity to raise your hand.

13 So, beginning over here with the jury box, please
14 raise your hand if you believe you cannot be fair and
15 impartial if you're selected as a juror for this trial.

16 (HANDS RAISED)

17 THE COURT: Please shout out your juror number.

18 PROSPECTIVE JUROR: B-211.

19 THE COURT: Thank you, sir.

20 You can step out.

21 (At this time, Prospective Juror B-211 was
22 excused)

23 PROSPECTIVE JUROR: B-386.

24 (At this time, Prospective Juror B-386 was
25 excused)

1 PROSPECTIVE JUROR: B-25.

2 (At this time, Prospective Juror B-25 was
3 excused)

4 PROSPECTIVE JUROR: B-349.

5 (At this time, Prospective Juror B-349 was
6 excused)

7 PROSPECTIVE JUROR: B-313.

8 (At this time, Prospective Juror B-313 was
9 excused)

10 PROSPECTIVE JUROR: B-320.

11 (At this time, Prospective Juror B-320 was
12 excused)

13 PROSPECTIVE JUROR: B-251.

14 (At this time, Prospective Juror B-251 was
15 excused)

16 PROSPECTIVE JUROR: B-45.

17 (At this time, Prospective Juror B-45 was
18 excused)

19 THE COURT: Again, this is if you believe that
20 you cannot be fair and impartial.

21 Next person?

22 PROSPECTIVE JUROR: B-161.

23 (At this time, Prospective Juror B-161 was
24 excused)

25 PROSPECTIVE JUROR: B-318.

1 (At this time, Prospective Juror B-318 was
2 excused)

3 THE COURT: So, now, we will do it row by row.
4 When the officer gets to your row, please raise your hand
5 if you believe that you cannot be fair and impartial if you
6 are selected to sit as a juror in this case.

7 Please yell out your number.

8 PROSPECTIVE JUROR: B-192.

9 (At this time, Prospective Juror B-192 was
10 excused)

11 PROSPECTIVE JUROR: B-15.

12 (At this time, Prospective Juror B-15 was
13 excused)

14 PROSPECTIVE JUROR: B-60.

15 (At this time, Prospective Juror B-60 was
16 excused)

17 PROSPECTIVE JUROR: B-398.

18 (At this time, Prospective Juror B-398 was
19 excused)

20 PROSPECTIVE JUROR: B-111.

21 (At this time, Prospective Juror B-111 was
22 excused)

23 PROSPECTIVE JUROR: B-323.

24 (At this time, Prospective Juror B-323 was
25 excused)

1 PROSPECTIVE JUROR: B-301.

2 (At this time, Prospective Juror B-301 was
3 excused)

4 PROSPECTIVE JUROR: B-57, your Honor.

5 (At this time, Prospective Juror B-57 was
6 excused)

7 PROSPECTIVE JUROR: B-341.

8 (At this time, Prospective Juror B-341 was
9 excused)

10 PROSPECTIVE JUROR: B-56, your Honor.

11 (At this time, Prospective Juror B-56 was
12 excused)

13 PROSPECTIVE JUROR: B-75.

14 (At this time, Prospective Juror B-75 was
15 excused)

16 PROSPECTIVE JUROR: B-169, your Honor.

17 (At this time, Prospective Juror B-169 was
18 excused)

19 PROSPECTIVE JUROR: B-372.

20 (At this time, Prospective Juror B-372 was
21 excused)

22 PROSPECTIVE JUROR: B-82.

23 (At this time, Prospective Juror B-82 was
24 excused)

25 PROSPECTIVE JUROR: B-299.

1 (At this time, Prospective Juror B-299 was
2 excused)

3 PROSPECTIVE JUROR: B-97, your Honor.

4 (At this time, Prospective Juror B-97 was
5 excused)

6 PROSPECTIVE JUROR: B-214.

7 (At this time, Prospective Juror B-214 was
8 excused)

9 PROSPECTIVE JUROR: B-149.

10 (At this time, Prospective Juror B-149 was
11 excused)

12 PROSPECTIVE JUROR: B-28.

13 (At this time, Prospective Juror B-28 was
14 excused)

15 PROSPECTIVE JUROR: B-117.

16 (At this time, Prospective Juror B-117 was
17 excused)

18 PROSPECTIVE JUROR: B-88.

19 (At this time, Prospective Juror B-88 was
20 excused)

21 PROSPECTIVE JUROR: B-31.

22 (At this time, Prospective Juror B-31 was
23 excused)

24 PROSPECTIVE JUROR: B-329, your Honor.

25 (At this time, Prospective Juror B-329 was

1 excused)

2 PROSPECTIVE JUROR: B-95.

3 (At this time, Prospective Juror B-95 was

4 excused)

5 PROSPECTIVE JUROR: B-27.

6 (At this time, Prospective Juror B-27 was

7 excused)

8 PROSPECTIVE JUROR: B-46, your Honor.

9 (At this time, Prospective Juror B-46 was

10 excused)

11 PROSPECTIVE JUROR: B-304, your Honor.

12 (At this time, Prospective Juror B-304 was

13 excused)

14 PROSPECTIVE JUROR: B-154, your Honor.

15 (At this time, Prospective Juror B-154 was

16 excused)

17 PROSPECTIVE JUROR: B-53, your Honor.

18 (At this time, Prospective Juror B-53 was

19 excused)

20 PROSPECTIVE JUROR: B-151.

21 (At this time, Prospective Juror B-151 was

22 excused)

23 PROSPECTIVE JUROR: B-385.

24 (At this time, Prospective Juror B-385 was

25 excused)

1 PROSPECTIVE JUROR: B-371.

2 (At this time, Prospective Juror B-371 was
3 excused)

4 PROSPECTIVE JUROR: B-17.

5 (At this time, Prospective Juror B-17 was
6 excused)

7 PROSPECTIVE JUROR: B-50, your Honor.

8 (At this time, Prospective Juror B-50 was
9 excused)

10 PROSPECTIVE JUROR: B-383, your Honor.

11 (At this time, Prospective Juror B-383 was
12 excused)

13 PROSPECTIVE JUROR: B-10.

14 (At this time, Prospective Juror B-10 was
15 excused)

16 PROSPECTIVE JUROR: B-114.

17 (At this time, Prospective Juror B-114 was
18 excused)

19 PROSPECTIVE JUROR: B-139.

20 (At this time, Prospective Juror B-139 was
21 excused)

22 PROSPECTIVE JUROR: B-187.

23 (At this time, Prospective Juror B-187 was
24 excused)

25 PROSPECTIVE JUROR: B-382, your Honor.

1 (At this time, Prospective Juror B-382 was
2 excused)

3 PROSPECTIVE JUROR: B-162, your Honor.

4 (At this time, Prospective Juror B-162 was
5 excused)

6 PROSPECTIVE JUROR: B-19.

7 (At this time, Prospective Juror B-19 was
8 excused)

9 PROSPECTIVE JUROR: B-157, your Honor.

10 (At this time, Prospective Juror B-157 was
11 excused)

12 THE COURT: Jurors, we're going to repeat what we
13 just did, but I would ask if you would please raise your
14 hand if you are unable to serve on this jury for any other
15 reason. Please raise your hand beginning with the jury
16 box.

17 (HANDS RAISED)

18 THE COURT: Sir, please tell us your number.

19 PROSPECTIVE JUROR: B-44.

20 THE COURT: Thank you.

21 You can step out.

22 (At this time, Prospective Juror B-44 was
23 excused)

24 THE COURT: What's your number?

25 PROSPECTIVE JUROR: B-295.

1 (At this time, Prospective Juror B-295 was
2 excused)

3 PROSPECTIVE JUROR: B-39.

4 (At this time, Prospective Juror B-39 was
5 excused)

6 PROSPECTIVE JUROR: B-181.

7 (At this time, Prospective Juror B-181 was
8 excused)

9 PROSPECTIVE JUROR: B-77, your Honor.

10 (At this time, Prospective Juror B-77 was
11 excused)

12 PROSPECTIVE JUROR: B-339.

13 (At this time, Prospective Juror B-339 was
14 excused)

15 PROSPECTIVE JUROR: B-260.

16 (At this time, Prospective Juror B-260 was
17 excused)

18 PROSPECTIVE JUROR: B-104, your Honor.

19 (At this time, Prospective Juror B-104 was
20 excused)

21 PROSPECTIVE JUROR: B-122.

22 (At this time, Prospective Juror B-122 was
23 excused)

24 THE COURT: Jurors in the jury box, please follow
25 the instructions of the sergeant. He's going to ask you to

1 sit in the audience.

2 Jurors, we will now call at random the
3 identification numbers of 18 jurors and ask you to take a
4 seat in the jury box.

5 After you take your seat, you will be handed a
6 questionnaire. Please review the questionnaire so that you
7 are prepared to answer the questions when it is your turn.
8 After all 18 jurors are seated, I will ask each juror from
9 the jury box to answer every question aloud.

10 At this time, please have your juror summons
11 handy and listen to the numbers as they're called by the
12 clerk. She will call a Juror ID number and a seat number.
13 It is important that you sit in the seat that is assigned
14 to you. So, please listen to both numbers, your
15 seat number and your Juror ID number.

16 THE CLERK: Calling seat number 1, B-397.

17 Seat number 2, B-38.

18 Seat number 3, B-220.

19 Seat number 4, B-221.

20 Seat number 5, B-193.

21 Seat number 6, B-113.

22 Seat number 7, B-14.

23 Seat number 8, B-285.

24 Seat number 9, B-280.

25 Seat number 10, B-391.

1 Seat number 11, B-59.

2 No response.

3 Recalling seat number 11 --

4 (At this time, Prospective Juror B-59 was seated
5 in seat number 11)

6 Seat number 12, B-49.

7 Seat number 13, B-377.

8 Seat number 14, B-89.

9 Seat number 15, B-146.

10 Seat number 16, B-128.

11 Seat number 17, B-74.

12 B-374?

13 THE COURT: Which seat number was that?

14 THE CLERK: Seat number 16 is B-128 and
15 seat number 17 is B-374.

16 THE COURT: Is your number 374, ma'am, or 74?

17 PROSPECTIVE JUROR: 374.

18 THE COURT: Okay.

19 THE CLERK: Seat number 18, B-297.

20 * * * * *

21 (At this time, Vincent M. Gerald, III was
22 relieved by Susan Pearce-Bates as Senior Court Reporter)

23

24

25

1 (Continued from the previous page.)

2 THE COURT: Good afternoon, beginning with seat
3 number one, B397, could you please answer the questions.
4 Please keep your voice up and speak into the mike.

5 PROSPECTIVE JUROR: Midtown east.

6 THE COURT: Answer all the questions.

7 PROSPECTIVE JUROR: I do business development,
8 question two. Question three, Novicare. Four, MBA. Five
9 yes. Six --

10 THE COURT: Sorry, do you have any children?

11 PROSPECTIVE JURORS: No. Six, venture capital.
12 Seven, restaurants in New York City. Eight, no. Nine, no.
13 Ten, New York Times, CNN, Google, Wall Street Journal. 11,
14 yes, Up First, The Daily. Twelve, no. Thirteen, no.

15 Fourteen, no. Fifteen, no. Sixteen, no. Seventeen, yes.
16 Eighteen, no. Nineteen, no. Twenty, no. Twenty-one, no.

17 THE COURT: I am sorry. That's both A and B?

18 PROSPECTIVE JUROR: No. Twenty-two, no.
19 Twenty-three, no. Twenty-four, yes. Twenty five, no.
20 Twenty-six, yes. Twenty seven, yes. Twenty eight, no.
21 Twenty-nine, no. No.

22 Go through all of them?

23 THE COURT: Yes. Please let us know which one
24 you are answering.

25 PROSPECTIVE JUROR: Twenty-nine C, no. D, no

1 THE COURT: E, no. F, no. G, no. H, no.
2 Thirty, no. Thirty one, no. Thirty two, no.
3 Thirty-three, yes. Thirty four, no. Thirty-five, no.
4 Thirty-six, no. Thirty-seven, no. Thirty-eight, yes.
5 Thirty nine, yes. Forty, yes. Forty-one, yes. Forty-two,
6 no.

7 THE COURT: Thank you. We will continue with
8 seat number two.

9 PROSPECTIVE JUROR: Thank you. Midtown, question
10 number one.

11 MR. STEINGLASS: Judge, can we confirm the
12 number?

13 THE COURT: Sure. It is E38.

14 PROSPECTIVE JURORS: Creative director. Been
15 doing that over 30 years. Current employee, last week at
16 Lands End. How large is your current employer, number of
17 people, probably, over 3 or 4,000.

18 No self-employment, a prior employer, Kenneth
19 Gold. What is your educational background, um, BFA. I
20 am -- am I married, yes.

21 In marketing.

22 THE COURT: I am sorry. Just going back to
23 twenty five C, do you have any children?

24 PROSPECTIVE JUROR: I have no children, a dog.

25 No adult children. Seven A., what do you do in

1 the spare theme, hiking, cooking, playing with my dog.

2 Do I have any hobbies, painting.

3 Eight A no, B zero. I have served on a jury
4 before. Criminal Court. Jury did reach a verdict.

5 New York Times, USA today, CNN, Wall Street
6 Journal, that's about it.

7 Do I listen watch, podcasts, no. Listen to talk
8 radio, no. Any relative or close friends, victim of a
9 crime, no.

10 Number fourteen, no. Number fifteen, no.
11 Sixteen, no. Seventeen, no. Eighteen A, no. B, no. C, I
12 am sorry, for C -- eighteen A was no. No answer for B.
13 Nineteen, no. Twenty, no. Twenty-one A, no. Twenty one
14 B, no. Twenty-two, no. Twenty-three, no. No conflict on
15 twenty four -- we are past. Twenty-five, no. Twenty-six,
16 yes. twenty seven, yes. twenty eight, no. Twenty-nine A,
17 no. 29B, no. 29C, no. 29D, no. Twenty-nine E, no.
18 Twenty-nine F, no. G, no. H, no. Thirty, none of the
19 organizations. Thirty one, no. Thirty two, no.
20 Thirty-three, yes. Thirty four, no.

21 Thirty-five, I have not read any of those.

22 Thirty six, have not read any of his books. Thirty-seven,
23 no. Thirty-eight, yes. Thirty-nine, yes. Forty, yes.
24 Forty-one, yes. Forty-two, no.

25

1 THE COURT: Thank you. Continuing with seat
2 number B220.

3 PROSPECTIVE JUROR: A is Harlem. I lived there
4 for about three years. I am not a native New Yorker. I am
5 originally from Texas. I work at a clothing company. I
6 just started a month ago. My current employer is
7 Bloomingdale's. I don't really know exactly how large it
8 is. Probably like a couple of thousand. Not self-employed
9 my. Prior employer was a performance job.

10 My educational background, I have a BFA. Five,
11 no, no children. Six, not married. Seven, I sing, watch
12 TV, go shopping and go to the club. No to eight. Nine,
13 no. Ten, Google, TikTok and Al Jazeera. I do listen to
14 podcasts, Mel Robbins, like movie podcasts. No talk radio.

15 Thirteen, no. Fourteen, no. Fifteen, no.
16 Sixteen, no. Seventeen, no. Eighteen, no. Nineteen, no.
17 Twenty, no. Twenty one, no. Twenty-two.

18 THE COURT: Is that for both parts?

19 PROSPECTIVE JUROR: Yes, sorry. Twenty-two, no.
20 Twenty-three, no. Twenty four, yes. Twenty five, no.
21 Twenty-six, yes. Twenty seven, yes. Twenty eight, no.
22 Twenty-nine, no to both. C, no. D, no. E, no. F, no.
23 G, no. H, no. Thirty, no to all. Thirty-one, no.
24 Thirty-two, no. Thirty-three, yes. thirty-four, yes.
25 Thirty five --

1 THE COURT: I am sorry. Could you just go back
2 to thirty four.

3 PROSPECTIVE JURORS: I said, yes.

4 Yes, I said yes.

5 THE COURT: You said, yes, to that one?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Is there any objection to
8 excusing this juror.

9 MR. STEINGLASS: No.

10 MR. BLANCHE: Yes, Your Honor.

11 THE COURT: Please approach.

12 (Discussion is held at side-bar, on the
13 record.)

14 THE COURT: The question thirty-four, she has an
15 opinion that would prevent her from being fair and
16 impartial.

17 Are you objecting to her being excused?

18 MR. BLANCHE: I am -- she said she cannot be fair
19 and impartial.

20 THE COURT: Right.

21 MR. BLANCHE: So she should be excused.

22 THE COURT: Yes.

23 MR. STEINGLASS: Judge, bathroom break at some
24 point.

25 MR. STERN: We don't object.

1 (Discussion at side-bar concluded, and the
2 following occurred in open court.)

3 THE COURT: We are going to excuse juror number
4 221.

5 PROSPECTIVE JUROR: 220.

6 (Juror is excused.)

7 THE COURT: 220, yes. Let's refill seat number
8 three.

9 THE CLERK: Refilling seat number three, B330.

10 THE COURT: Good afternoon, you can start
11 whenever you are ready.

12 PROSPECTIVE JUROR: Question one, live, upper
13 west side, five years. I am from Pennsylvania originally.
14 I work for a New York City government agency in marketing
15 and communications and doing that for about 20 years. I
16 work for the New York City Economic Development
17 Corporation. There is about 550 people at the company.
18 Also, it's C and D, no. Previous employer, New York City
19 Department of Transportation. I have a masters in public
20 administration.

21 THE COURT: I think you might be pressing the
22 button on and off. Keep your hand away from the button.
23 Thank you.

24 PROSPECTIVE JUROR: Five A, yes. five C, no
25 children. Six A, hospital administrator. Seven A, cook,

1 artwork, go to parks and shows in the city. I guess that's
2 that page.

3 Eight, no. Nine, no. Nine A and B are both no.
4 Ten, New York Times, CNN, Google, Facebook a little.
5 Eleven, no, twelve, no. Thirteen, no. Fourteen, no.
6 Fifteen, I have been employed by a local government for
7 fifteen, no relatives.

8 Sixteen, no. Seventeen, no. Eighteen A, no. B
9 and C, no. Nineteen, no. Twenty, no. Twenty-one A, no.
10 B, no. Twenty-two, no. Twenty-three, no. Twenty-four,
11 yes. Twenty-five, no. Twenty-six, yes. Twenty-seven,
12 yes. Twenty-eight, no. Twenty-nine A, no. B, no. C, no.
13 D, yes. E no. F, no. G, no. H, no. Thirty, no.
14 Thirty-one, no. Thirty-two, no. Thirty-three, yes.
15 Thirty-four, no. Thirty-five, no. Thirty-six, no.
16 Thirty-seven, yes. Thirty-eight, yes. Thirty-nine, yes.
17 forty, yes. Forty-one, yes. Forty-two, no.

18 THE COURT: Okay, thank you. Before we continue
19 seating the jury we will take a short recess at this time.

20 Please remember your seat. You will need to come
21 back and sit in the same location. You can just leave the
22 questionnaires on the chair. Please follow the
23 instructions of the sergeant and the other court officers.
24 They will instruct you how to step out.

25 (Jury is excused.)

1 THE COURT: We are going to take a short
2 ten-minute break. Meet here, counsel. Everyone is
3 directed to have no communication, whatsoever, with any of
4 the jurors. If you don't know that they are on your team,
5 just don't speak with them. Okay, thank you.)

6 (Short recess is taken.)

7 THE COURT: Counsel, it's important to keep
8 breaks at the given time to keep things moving.

9 MR. BLANCHE: Yes, Your Honor.

10 THE COURT: We can get the jury so we can keep
11 moving.

12 While we wait for the jurors, normally, I like to
13 recess at some convenient breaking point. I don't think
14 that that's going to be possible today because during the
15 course of the jury selection there are just too many
16 questions and it's going to take too long.

17 I intend to break today around 4:30 regardless of
18 where we are in the process. I would like to start
19 tomorrow at 9:30. We have about sixteen in the audience.
20 We have the eighteen in the box and if we can go through
21 all thirty-four, thirty-three or thirty four, whatever we
22 have, that should line up well with the next panel, which
23 we expect to get at about 10:30 or 11. Okay.

24 (Prospective jurors entered the courtroom
25 and were properly seated.)

1 THE COURT: Welcome back, jurors.

2 We'll continue with seat four, Number 3221.

3 PROSPECTIVE JUROR: Thank you.

4 Your Honor, I have a question that the officers
5 instructed me to ask before. Let me answer accurately the
6 second question you asked to the group.

7 THE COURT: You were unable to answer the second
8 question?

9 PROSPECTIVE JUROR: I need clarification. Not
10 this one, the group question.

11 THE COURT: I see.

12 PROSPECTIVE JUROR: So I understand the trial must
13 be six weeks. I have a child who is getting married out of
14 town on June 8th. It's right at the edge. So I just
15 wasn't sure what to do.

16 THE COURT: Right. I can't answer for you. I
17 think we should be done by then, but I can't promise.
18 So only you can decide whether you want to roll the dice.
19 Once you are with us, you're with us. You're with us until
20 we finish.

21 PROSPECTIVE JUROR: Right.

22 THE COURT: Where is the wedding?

23 PROSPECTIVE JUROR: Seattle.

24 THE COURT: To be on the safe side, we should
25 probably excuse you.

1 THE COURT: Thank you, sir.

2 You should step out.

3 Congratulations. Good luck.

4 (Prospective juror excused.)

5 THE COURT: Fill seat four, please.

6 THE CLERK: Refilling seat number four, B400.

7 THE COURT: Before we continue with seat four,
8 B400, I see that seat one, you are raising your hand. Is
9 there a question?

10 PROSPECTIVE JUROR: So I need clarification. I
11 have a vacation scheduled May 24th to May 27th.

12 THE COURT: What date are you leaving for that?

13 PROSPECTIVE JUROR: Saturday to the Tuesday after
14 Memorial Day, the day after Memorial Day.

15 THE COURT: So we're not meeting Memorial Day, but
16 we are going to meet the day after Memorial Day. Would you
17 be able be back here in time for that?

18 PROSPECTIVE JUROR: I have to change the flight.

19 THE COURT: Would you be able to do that?

20 PROSPECTIVE JUROR: I would have to check. I
21 don't know.

22 THE COURT: Please check and let us know.

23 Thank you.

24 PROSPECTIVE JUROR: Good afternoon. West Harlem.
25 No, I am from Ireland. I am in sales. Twenty-eight

1 years. No to C. It has about 1,000 employees. I worked
2 as a waiter. That was the answer to question D. Some
3 college. Five-A, yes. Five-B, no. Five C. No. No
4 children. Six, is in school. No, I have no children.
5 Anything outdoor see for seven and right. And eight is no.
6 Nine is no. Probably New York Times, Fox News, and MSNBC.
7 Eleven is no. Twelve is no. Thirteen is no. Fourteen is
8 no. Fifteen is no. Sixteen is no. Seventeen is no.
9 Eighteen-A is no. Nineteen is no. Twenty is no.
10 Twenty-one-A is no. Twenty-one-B is no. And 22 is no.
11 Twenty-three is no. And 24 is yes. Twenty-five is no.
12 And 26 is yes. Twenty-seven is yes. Twenty-eight is no.
13 Twenty-nine-A is no. Twenty-nine-B is no. And C is no.
14 D is no. E is no. F is no. G is no. H is no. Thirty is
15 no. Thirty-one is no. Thirty-two is no. Thirty-three is
16 yes. Thirty-four is no. Thirty-five is no. Thirty-six
17 is no. Thirty-seven is no. Thirty-eight is yes.
18 Thirty-nine is yes. Forty is yes. Forty-one is yes.
19 Forty-two is no.

20 THE COURT: Thank you.

21 We will continue with seat number B193.

22 PROSPECTIVE JUROR: Thanks, Judge.

23 One is Sutton Place. B, three years. C, yes.

24 2A --

25 THE COURT: Sorry, you might have just turned it

1 off. We'll try to continue without it. Raise your voice.

2 PROSPECTIVE JUROR: Two-A, I am a lawyer. I have
3 been doing that for seven years.

4 THE COURT: What kind of law do you practice?

5 PROSPECTIVE JUROR: Antitrust and reconstruction
6 litigation.

7 THE COURT: Have you ever practiced criminal law.

8 PROSPECTIVE JUROR: No. I am currently employed
9 by Davis Polk & Wardwell. We have 900 attorneys. Prior to
10 that I clerked for the Chief Judge of New York. I have a
11 JD. I am a married.

12 THE COURT: Which Chief Judge did you clerk for?

13 PROSPECTIVE JUROR: DeFiore.

14 I am married. My wife is currently pregnant with
15 our first child. She is a production manager for music. I
16 cook in my spare time. Eight-A is no. Nine-A is no.
17 Ten; New York Times, CNN, Wall Street Journal, New York
18 Post. Eleven; NPR First. Twelve is no. Thirteen is no.
19 Fourteen is no. Fifteen is yes, myself. Sixteen is no.
20 Seventeen is yes, myself. Eighteen is yes, just my time
21 clerking. C, no. Nineteen, no. Twenty, no.
22 Twenty-one-A, no. Twenty-one-B, no. Twenty-two, no.
23 Twenty-three, no. Twenty-four, yes. Twenty-five, no.
24 Twenty-six, yes. Twenty-seven, yes. Twenty-eight, no.
25 Twenty-nine-A, no. B, no. C, no. D, no. F, no.

1 G, no. H, no. Thirty, no. Thirty-one, no. Thirty-two,
2 no. Thirty-three, yes. Thirty-four, no. Thirty-five, no.
3 Thirty-six, no. Thirty-seven, no. Thirty-eight, yes.
4 Thirty-nine, yes. Forty, yes. Forty-one, yes. Forty-two,
5 yes.

6 THE COURT: Thank you.

7 Let's continue with seat six, which is B113.

8 PROSPECTIVE JUROR: Upper West Side. I have lived
9 there 23 years. I am a book seller. I have been doing
10 that for about six years. My current employer is the Drama
11 Book Shop. We have about 40 people. I am sorry, 3D,
12 Shakespeare & Company. I have a BA. Five-A, married.
13 B, yes. C, I have two children. Six-A, my wife is a
14 lawyer.

15 THE COURT: What kind of law does she practice?

16 PROSPECTIVE JUROR: Just general practice,
17 antitrust, things like that. I have two adult children.
18 One will be attending college in the fall and one is
19 finishing up college and works for New Jersey Transit.
20 Seven-A, in my spare time I watch movies, read, go to
21 Broadway shows. Eight-A, I work with a pediatric cancer
22 organization to raise funds to fight pediatric cancer.
23 Nine-A, no. Ten; New York Times, CNN, MSNBC, Google,
24 Facebook, X. Eleven, no. Twelve, yes, whatever is on when
25 my alarm goes off, whatever is on when I am in the shower

1 and whatever is on when I am driving a car. And the Talk
2 Radio NPR is on all three. Thirteen, no. Fourteen, no.
3 Fifteen, so. Sixteen, no. Seventeen, yes. Eighteen-A,
4 no. Nineteen, no. Twenty, no. Twenty-one, no. A, B, no.
5 Twenty-two, no. Twenty-three, no. Twenty -four, yes, I
6 could reschedule anything. Twenty-five, no. Twenty-six,
7 yes. Twenty-seven, yes. Twenty-eight, no. Twenty-nine-A,
8 no. Twenty-nine-B, no. Twenty-nine-C, no. Twenty-nine-D,
9 no. Twenty-nine-E, no. Twenty-nine-F, no. Twenty-nine-G,
10 no. Twenty-nine-H, no. Thirty, no. Thirty-one, I feel
11 that nobody is above the law, whether it be a former
12 president or sitting president or a janitor. Thirty-two,
13 no. Thirty-three, yes. Thirty-four, no. Thirty-five, no.
14 Thirty-six, no. Thirty-seven, no. Thirty-eight, yes.
15 Thirty-nine, yes. Forty, yes. Forty-one, yes. Forty-two,
16 no.

17 THE COURT: Thank you.

18 Good afternoon.

19 PROSPECTIVE JUROR: Good afternoon. I live on the
20 Upper East Side. I am also an attorney. I am a criminal
21 prosecutor at the Bronx County DA's office. I have been
22 there for about seven years. I am not sure how many
23 attorneys, I think, maybe 400.

24 THE COURT: Obviously, you are a prosecutor. This
25 is what you do for a living.

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Can you give us your assurance that if
3 you're selected as a juror on this case you can be fair and
4 impartial?

5 PROSPECTIVE JUROR: I would, yes.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR: I have a JD. I am not
8 married. In my spare time, I enjoy hiking and camping.
9 Number eight, I do not participate in any organizations.
10 Number nine, I have never served on a jury. Number 10;
11 New York Times, Wall Street Journal, New York Post and Fox
12 News. Number 11, no pod casts. Number 12, no talk radio.
13 Number 13, no. Number 14, I have made friends who are
14 ADA's, former ADA's, police, a couple of people in the
15 AUSA's office, et cetera. Fifteen, as well as other people
16 I know who have been employed by the District Attorney's
17 office. Sixteen, my girlfriend is in finance for a bank
18 but I honestly don't know what she does. She told me and
19 it was very confusing. Seventeen, yes, criminal law.
20 Eighteen, I have had interactions obviously with my job but
21 it would not prevent me in any way from being fair and
22 impartial. Relative or close friends, my dad was convicted
23 of a trespass in New Hampshire years ago, but that wouldn't
24 affect me in any way. No to Number 20. Twenty-one-A, no.
25 Twenty-one-B, no. Twenty-two, no. Twenty-three, no.

1 Twenty-four, yes. Twenty-five, no. Twenty-six, yes. I
2 can give that assurance. Twenty-seven, yes. Twenty-eight,
3 no. Twenty-nine, no. Twenty-nine-B no. Twenty-nine-C, I
4 think I may have been years ago, but I unsubscribed to a
5 bunch of stuff so I don't remember. Twenty-nine-D, no.
6 E, no. F, no. G, no. H, no. Thirty, no. Thirty-one,
7 no. Thirty-two, no. Thirty-three, yes. Thirty-four, no.
8 Thirty-five, no, I have not read any of those books.
9 Thirty-six, no. Thirty-seven, no. Thirty-eight, yes.
10 Thirty-nine, yes. Forty, yes. Forty-one, yes. And
11 forty-two, no.

12 THE COURT: Thank you.

13 Seat Number B285.

14 PROSPECTIVE JUROR: I've lived in the Upper East
15 Side for three years. I am originally from the suburbs of
16 Chicago. I work in social media marketing. I have been
17 doing that for three years. My current employer is
18 Fangole. I think there is around 1500 employees. My
19 previous employer was Whistle Sports. I have a Bachelor's
20 degree. I am not married, so six does not apply to me.
21 And in my spare time I watch sports and reality TV.
22 Eight, no. Nine, no. Ten; Google, Facebook, X, Tik Tok,
23 Instagram and the Wall Street Journal. Eleven, no.
24 Twelve, no. Thirteen, no. Fourteen, no. Fifteen, no.
25 Sixteen, yes. My dad, my brothers and my boyfriend all

1 work in finance. Seventeen, no. Eighteen, no, B and C.
2 Nineteen, no. Twenty, no. Twenty-one-A, no. B, no.
3 Twenty-two, no. Twenty-three, no. Twenty-four, yes.
4 Twenty-five, no. Twenty-six, yes. Twenty-seven, yes.
5 Twenty-eight, no. Twenty-nine-A, no. B, no. C, I believe
6 I got emailed a couple of years ago but unsubscribed.
7 Did, no. E, no. F, no. G, no. H, no. Thirty, no.
8 Thirty-one, no. Thirty-two, no. Thirty-three, yes.
9 Thirty-four, no. Thirty-five, no. Thirty-six, no.
10 Thirty-seven, no. Thirty-eight, yes. Thirty-nine, yes.
11 Forty, yes. Forty-one, yes. Forty-two, no.

12 THE COURT: Thank you.

13 Let's continue with seat 9B280.

14 PROSPECTIVE JUROR: Good afternoon. One-A, Upper
15 East Side. One-B, three years. C, yes. I am a native New
16 Yorker. Two, I am oncology nurse. Two-B, I have been
17 doing that for 15 years. C does not apply. Three-A, my
18 current employer is Memorial Sloan Kettering. How large,
19 thousands. C and D are not relevant. Four, I have a
20 Master's degree in nursing. Five-A. I am not married.
21 Five-B, I have never been married, no. C, no children.
22 Six-A, living with my fiance. Six-B, no. Seven-A,
23 spending time with family and friends, taking my dog to the
24 park. Seven-B, same thing. Eight-A, no. Nine-A, no.
25 Nine-B, no. Ten; New York Times, CNN, Google, I have a

1 Facebook account. Eleven, no. Twelve, no. Thirteen, no.
2 Fourteen, no. Fifteen, no. Sixteen, yes, my fiance works
3 in finance. Seventeen, no. Eighteen, no. A, no, sorry.
4 Eighteen-B, no. Eighteen-C, no. Nineteen, no. Twenty,
5 no. Twenty-one, no. Twenty-one-B, no. Twenty-two, no.
6 Twenty-three, no. Twenty-four, yes. Twenty-five, no.
7 Twenty-six, yes. Twenty-seven, yes. Twenty-eight, no.
8 Twenty-nine-A, no. Twenty-nine-B, no. Twenty-nine-C, no.
9 Twenty-nine-D, no. Twenty-nine-E, no. Twenty-nine-F, no.
10 Twenty-nine-G, no. Twenty-nine-H, no. Thirty-no.
11 Thirty-one, no. Thirty-two, no. Thirty-three, yes.
12 Thirty-four, no. Thirty-five, no. Thirty-six, no.
13 Thirty-seven, no. Thirty-eight, yes. Thirty-nine, yes.
14 Forty, yes. Forty-one, yes. Forty-two, no.

15 THE COURT: Okay.

16 Thank you.

17 Jurors, we're going to have to stop at this point
18 for the day.

19 Seat Number 1, you are going to look into that
20 flight information.

21 Jurors, I would like to start tomorrow morning at
22 9:30 sharp. Try to get here before that. As you know, you
23 have to go through the magnetometers and I really would
24 like to start at 9:30 sharp.

25 I ask you to please be here at the times that I

1 set so that your lateness is not the reason for our delay.
2 We cannot start until all 18 of you are here. So even if
3 17 of you are here and one is not, we have to wait.

4 Those of you in the audience, I am asking you as
5 well to be here at 9:30 sharp. Approximately a little
6 before 9:30 so we can start at 9:30 sharp.

7 If there an emergency that comes up, if anything
8 happens that will cause you to be late, please call us.
9 Let us know about the emergency. Let us know what is going
10 on so that we can notify everyone else and minimize
11 everyone's inconvenience.

12 There are some instructions I need to read to you
13 now and I am going to read them to you numerous times
14 during the course of the trial.

15 Our law requires lawyers to follow certain
16 instructions in order to help assure a just and fair trial.
17 I will now give you those instructions and this applies to
18 the 18 of you in the box as well as those of you in the
19 audience.

20 Please do not converse either among yourselves or
21 with anyone else about anything related to this case. You
22 may tell the people with whom you live and work that you
23 are a juror, you can give them information about when you
24 will be required to be in court, but you may not talk with
25 them or anyone else about anything related to the case.

1 Do not at any time during the trial accept, agree
2 to accept or discuss with any person the receipt or
3 acceptance of any payment or benefit in return for
4 supplying any information concerning the trial.

5 You must promptly report directly to me any
6 incident within your knowledge involving an attempt by any
7 person improperly to influence you or any member of the
8 jury.

9 Do not visit or view any of the locations
10 discussed in the case.

11 Do not read, view or listen to any accounts or
12 discussions of the case reported by newspapers, television,
13 radio, the internet or any other news media.

14 You must also not use internet maps or google
15 earth or any other program or device to search for and view
16 any of the locations discussed in the testimony.

17 Do not attempt to research any fact, issue or law
18 related to the case, whether by discussion with others, by
19 research in the library or on the internet or by any other
20 source. In this age of instant electronic communication
21 and research, I emphasize that in addition to not
22 conversing face-to-face about the case, you must not
23 communicate with anyone about the case by any other means,
24 including by telephone, text message, email, chat rooms,
25 blobs, social websites, Facebook or X.

1 You must not provide any information about the
2 case to anyone by any means whatsoever, and that includes
3 the posting of information about the case or what you are
4 doing in the case on any device or internet site, including
5 blogs, chat rooms, social websites or any other media.

6 You must also not Google or otherwise search for
7 any information about the case or the law which applies to
8 the case or the people involved in the case, including the
9 defendant, the witnesses, the lawyers or myself.

10 Finally, if you happen to see me or any of the
11 attorneys or anyone else involved in this case out in the
12 hallways or the public spaces, please do not be offended if
13 we do not acknowledge you, if we don't greet you. We're
14 prohibited from engaging you during the course of the trial
15 and to avoid the appearance of impropriety we will not
16 greet you.

17 I hope you can appreciate what we are trying to
18 provide these obligations.

19 So, again, I will really like to start at 9:30.

20 Thank you very much.

21 You can leave the questionnaires on your chairs
22 and follow the officer's instructions.

23 (Whereupon, all prospective jurors leaving
24 courtroom.)

25 ***

1 THE COURT: Counsel, regarding tomorrow's voir
2 dire, you have 30 minutes in the first round. That's a lot
3 of time. So I ask you, please, before you begin your voir
4 dire, look at the clock in the back of the courtroom,
5 that's the clock I will be looking at so let's all be on
6 the same page. Again, it's 30 minutes. I don't like to
7 interrupt anybody while you are conducting the voir dire.
8 I try to avoid it. If you run over, I will have to. If
9 you're just about done and you just need one more minute
10 and you haven't squandered your time, just let me know,
11 Judge, can I please have one more minute. I am sure that
12 that will be okay.

13 Are there any questions, anything that we need to
14 go over?

15 MR. STEINGLASS: No thank you, Judge.

16 MR. BLANCHE: Your Honor, just two brief
17 scheduling questions and requests.

18 Today your Honor scheduled proceedings on a
19 Wednesday, and potentially that could happen in the future.
20 As the court is aware, President Trump is very busy in the
21 campaign season and he is here four days a week. The
22 campaign has taken pains to schedule events on Wednesday.
23 So the request, your Honor, is if President Trump can be
24 excused from any proceedings that take place on the day
25 off or the day the jury is not sitting on Wednesdays so

1 that he can attend the campaign events, and some of which
2 are in New York and others are all over the country.

3 That's the first request.

4 THE COURT: People.

5 MR. STEINGLASS: I thought that the one item that
6 you had scheduled for Wednesday you moved to Tuesday.

7 THE COURT: I did.

8 MR. STEINGLASS: So I am not sure this has been
9 implicated yet, but I think we'll defer to your Honor in
10 terms of whatever is appropriate and what is not
11 appropriate.

12 THE COURT: I can't give you a blanket answer.
13 Certainly for any proceeding that involves the jury, your
14 client needs to be here regardless. In the proceeding next
15 week, it involves an order to show cause alleging that your
16 clean violated a gag order, so if we had it on Wednesday,
17 he would have needed to be here for that. We're having it
18 on Tuesday. It's a nonissue.

19 Generally speaking, as we mentioned earlier, we
20 will not meet on Wednesdays.

21 MR. BLANCHE: That was the reason for the request.
22 I know your Honor moved the hearing, but if it's up in the
23 air, it makes it very challenging for the campaign and for
24 President Trump to plan his schedule in the middle of the
25 season. I again ask that your Honor take that into

1 consideration.

2 The second request has to do --

3 THE COURT: I just answered that question. Of
4 course, I will take that into consideration. As I
5 mentioned earlier today, we really have to see how we're
6 doing on time. If we're running way behind schedule and I
7 promised the jurors we would be done in a certain amount of
8 time, I may have no choice but to start having proceedings
9 on Wednesday afternoons.

10 MR. BLANCHE: And the second has to do with next
11 Thursday. As the court is aware, there is a Supreme Court
12 argument on really all four of the criminal cases, but very
13 significantly the other three charged criminal cases in the
14 Southern District of Florida, D.C. and Georgia, and
15 President Trump very much wants to attend that.

16 I understand what your Honor just said, so I am
17 anticipating the answer. But it is extremely important to
18 him to be there. And, again, it comes back to the multiple
19 different indictments that he is facing and the campaign
20 season, so I would just again respectfully request the
21 court's indulgence that he be allowed to attend the
22 Supreme Court hearing, the arguments Thursday morning. He
23 could presumably be back here by the afternoon after
24 lunchtime.

25 MR. STEINGLASS: There is certainly no obligation

1 that the defendant has to be present at the Supreme Court
2 argument. I think we've accommodated the defense
3 scheduling requests enough already and we would ask that we
4 continue with jury selection or trial next Thursday.

5 THE COURT: Look, arguments before the Supreme
6 Court is a big deal. It's an important thing. I could
7 certainly appreciate why your client wants to be there.
8 But having a trial in New York County Supreme Court with a
9 jury of 12 and perhaps six alternates, that is also a big
10 deal and it's important that your client be here in person.
11 He's a criminal defendant facing the indictment. He needs
12 to be present.

13 MR. BLANCHE: Judge, I very much agree with what
14 your Honor just said. Again, this is an incredibly usual
15 case. It's not very often that you have somebody who has
16 multiple criminal indictments at the same time, and when
17 the People said they have accommodated our schedule, I
18 don't think that is true, your Honor. I think we have been
19 asking -- we don't think we should be here at all right
20 now -- but certainly an accommodation for something like a
21 Supreme Court argument, your Honor.

22 THE COURT: You don't think you should be here at
23 all?

24 MR. BLANCHE: Excuse me.

25 THE COURT: You don't think you should be here at

1 all right now?

2 MR. BLANCHE: Correct, your Honor.

3 THE COURT: We're going back to what, because it
4 impairs your client's ability to campaign?

5 MR. BLANCHE: No, to attend the Supreme Court
6 arguments.

7 THE COURT: You are talking about today. You said
8 you don't think you should be here right now.

9 MR. BLANCHE: As your Honor knows, we objected to
10 having this trial during the campaign season. I am going
11 back to that objection.

12 THE COURT: Let's move along from that, okay. I
13 have already ruled on that. Your client is a criminal
14 defendant in New York County Supreme court. He is required
15 to be here. He is not required to be in the Supreme Court.
16 I will see him here next week.

17 (Whereupon, the trial in this matter stood
18 adjourned to Tuesday, April 16, 2024.)

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