

SUPREME COURT NEW YORK COUNTY
TRIAL TERM PART 59

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THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT #
                                         : 71543-2023
                                         :
          AGAINST                       : CHARGE
                                         : FALSIFYING BUSINESS
                                         : RECORDS 1st Deg.
                                         :
          DONALD J. TRUMP                :
                                         :
                                         :
-----x Proceedings

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100 Centre Street
New York, New York 10013
April 4, 2023

B E F O R E:

HONORABLE: JUAN MERCHAN,
JUSTICE OF THE SUPREME COURT

RANDY BERKOWITZ, SENIOR COURT REPORTER

APPEARANCES FOR THE PEOPLE:

ALVIN BRAGG, JR. DISTRICT ATTORNEY BY:
SUSAN HOFFINGER, ESQ.
CHRISTOPHER CONROY, ESQ.
MATTHEW COLANGELO, ESQ.
CATHERINE MCCAWE, ESQ.
BECKY MANGOLD, ESQ.

FOR THE DEFENDANT, DONALD J. TRUMP:
SUSAN NECHELES, ESQ.
JOSEPH TACOPINA, ESQ.
TODD BLANCHE, ESQ.

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THE CLERK: Calendar number one, indictment 71543
of 2023, People of the State of New York versus Donald J.
Trump. Appearances.

MR. CONROY: Christopher Conroy for the People.
And Judge, with me are Catherine McCaw, Matthew Colangelo,
Susan Hoffinger and Becky Mangold.

THE COURT: Good afternoon.

MR. BLANCHE: Good afternoon, your Honor. Todd
Blanche for President Trump.

MS. NECHELES: Susan Necheles for President Trump
as well.

MR. TACOPINA: Once again, Joseph Tacopina for
President Donald J. Trump.

THE COURT: Good afternoon.

This matter is on for arraignment. Anything that
we need to address before we conduct the arraignment?

MR. CONROY: Not from the People.

THE COURT: Defense?

MR. BLANCHE: No, your Honor.

THE COURT: Lets arraign Mr. Trump.

THE CLERK: Donald J. Trump, the grand jury of New
York County has filed indictment 71543 of 2023 charging you
with the crimes of 34 counts of falsifying business records
in the first degree.

1 How do you plead to this indictment, guilty or not
2 guilty?

3 DEFENDANT MR. TRUMP: Not guilty.

4 THE COURT: People.

5 MR. CONROY: Thank you, Judge. First, we are
6 filing with the Court and handing to counsel, copies of the
7 indictment and a statement of facts.

8 Judge, I'm also handing over to counsel a copy of
9 the fingerprint report, and I would note for the record
10 that the indictment was actually unsealed at 1:30 today and
11 given to counsel for the defendant so they could review
12 that in advance of this appearance.

13 Your Honor, a grand jury sitting here in Manhattan
14 made up of diligent, thoughtful New Yorkers who did their
15 civic duty, listened to the evidence and carefully
16 considered the charges has voted an indictment against the
17 defendant, Donald J. Trump, charging him with 34 separate
18 felony counts of falsifying business records in the first
19 degree in violation of New York State Penal Law section 175
20 10.

21 ADA McCaw is prepared to address discovery,
22 scheduling of motions, and a trial date in a moment, but
23 with the Court's permission, I would first like to address
24 briefly what this case is about, the defendant's recent
25 public statements, conditions of release, and the conflict

1 matter the People believe the Court should be aware of.

2 THE COURT: Please.

3 MR. CONROY: Thank you. The defendant, Donald J.
4 Trump, falsified New York business records in order to
5 conceal an illegal conspiracy to undermine the integrity of
6 the 2016 presidential election and other violations of
7 Election Laws.

8 Beginning in about August of 2015, the defendant
9 agreed with others to carry out an unlawful plan to
10 identify and suppress negative information that could have
11 undermined his candidacy for President.

12 As part of that plan, a lawyer employed by the
13 Trump Organization made a covert and illegal 130 thousand
14 dollar payment at the defendant's direction.

15 The purpose of the payment was to avoid negative
16 attention to the defendant's campaign by suppressing
17 information about an allegedly sexual encounter between
18 defendant and an adult film actress.

19 After the election, defendant reimbursed the
20 lawyer through a series of disguised monthly payments that
21 hid the true nature of the payoff by causing a series of
22 false business records in the records of the Trump
23 Organization here in Manhattan, and even mischaracterized
24 for tax purposes the true nature of the payment.

25 Defendant falsified these New York business

1 records with the intent to defraud, including the intent to
2 commit another crime, and to aid and conceal the commission
3 of another crime.

4 This office has long prioritized protecting the
5 integrity of business records maintained here in New York
6 County.

7 When those records are falsified in service of
8 another crime, it is a felony.

9 That is what this defendant did when he falsified
10 business records in order to conceal unlawful efforts to
11 promote his candidacy and that is why we are here.

12 Next, I would like to briefly address this
13 defendant's recent public statements threatening our city,
14 our justice system, our courts, and our office.

15 Over the past several weeks and longer, this
16 defendant has made a series of threatening and escalating
17 communications on social media and on other public remarks.
18 This includes irresponsible social media posts that target
19 various individuals involved in this matter, and even their
20 families.

21 His public statements have, among other things,
22 threatened potential death and destruction, and that is a
23 quote, and world war three, another quote, if these charges
24 were brought and he was indicted.

25 They have directly addressed the grand jury and

1 disparaged witnesses who have purportedly participated in
2 our investigation.

3 Defendant has also directed a series of
4 threatening public statements to the District Attorney's
5 Office, including posting a picture that depicts Mr. Trump
6 wielding a baseball bat at the head of the District
7 Attorney.

8 These comments and posts have led to extensive
9 public safety measures being put into place by a number of
10 law enforcement agencies around the city, including here at
11 the courthouse starting several weeks ago.

12 At this point, I'm going to hand the Court copies
13 of several of the defendant's recent online posts as an
14 example. Sorry, one moment.

15 (Handed to Court and counsel).

16 MR. CONROY: I'm also handing copies to counsel.
17 These posts are examples of this kind of threatening
18 rhetoric.

19 We have significant concern about the potential
20 danger this kind of rhetoric poses to our city, to
21 potential jurors and witnesses, and to the judicial
22 process.

23 What these kinds of posts will not do, is deter
24 the New York County District Attorney's Office from
25 carrying out its critical public safety mission

1 professionally, and evenhandedly in connection with every
2 single investigation and prosecution we have handled,
3 including this one.

4 At this point, one way to address the defendant's
5 behavior and rhetoric is an appropriately restricted
6 protective order concerning discovery materials, so that
7 his lawyers can access the information they need to prepare
8 a defense, while at the same time, making sure the
9 defendant does not disseminate any information provided as
10 discovery through threatening online posts.

11 ADA McCaw will further address the protective
12 order shortly, and the terms of any protective order the
13 Court enters can of course be carefully policed through
14 contempt proceedings and other sanctions as necessary.

15 Today we are only seeking a protective order
16 regarding discovery materials, but we note that the
17 defendant's escalating public comments summing directly at
18 participants at these proceedings and their family members,
19 may also raise concerns about the fair and orderly
20 administration of justice, the risks that pretrial
21 publicity will paint the jury pool and prejudice a fair
22 trial, and individual and public safety concerns.

23 We are considering whether further relief or
24 conditions would be warranted here based on continuing
25 developments, and we would be prepared to submit briefing

1 if the Court requests.

2 I'm going to move now to conditions of release.
3 In addressing the terms or the conditions of defendant's
4 release, we first note under New York law, these charges
5 are not bail eligible.

6 We further note defendant surrendered voluntarily
7 for his processing and arraignment today.

8 We are asking the Court to give the defendant
9 Parker warnings before he leaves the courtroom today.

10 Should the defendant decide got to return to court
11 from out of state, these warnings would help mitigate
12 potential issues around any extradition proceeding.

13 Finally, if circumstances change and we believe
14 modifications to these conditions are required, we will
15 advise the Court.

16 Last on my list, we would like to bring to your
17 attention a potential conflict Mr. Tacopina may have, given
18 our understanding that he previously had privileged
19 communications with Stormy Daniels, who we expect to be a
20 witness in this case.

21 We believe it appropriate for you to conduct an
22 inquiry at an appropriate time of both Mr. Tacopina and the
23 defendant about potential conflict issues related to his
24 prior dealings with Ms. Daniels.

25 We received a copy of a letter from Ms. Daniels's

1 current lawyer which was sent to Mr. Tacopina on this issue
2 yesterday; Monday, April 3rd.

3 We can file a copy with the Court and serve it on
4 counsel within the next day or so if that would assist the
5 Court in considering this issue.

6 At this point, if it is okay, I was going to turn
7 to Ms. McCaw to talk about discovery and other issues.

8 THE COURT: Of course. Counsel?

9 MR. BLANCHE: Your Honor, thank you. I didn't
10 realize we were going to give opening statements today.

11 I would appreciate the opportunity to respond.

12 Your Honor, the People just talked for 10 minutes
13 or so about, it sounds like the strength of their case.

14 They did this -- there is no trial, we have not
15 seen discovery. It is actually consistent with what the
16 witnesses have been doing they have been calling over the
17 past several months.

18 Indeed, their main witness, Michael Cohen walks
19 out of this office and stands on the courthouse steps
20 everytime he meets with the prosecutors, everytime he
21 testifies in the grand jury, and announces exactly what
22 he's doing and why he's doing it.

23 It is true that President Trump has responded, and
24 responded forcefully. It is true that as part of that
25 response, he's absolutely frustrated, upset, and believes

1 that there is a grave injustice happening with him being in
2 this courtroom today.

3 That being said, your Honor, for the People to
4 stand before you today and give their version of this
5 indictment, is actually exasperating the problem.

6 So, the complaint from the People is that
7 President Trump is talking too much about the case, talking
8 too much about the investigation --

9 THE COURT: I'm not sure that is what they were
10 saying. They are complaining about the rhetoric and the
11 charged nature of the language that is being used.

12 MR. CONROY: That is correct, your Honor.

13 MR. BLANCHE: If that is the case, the President
14 has not only free speech rights to talk about his view of
15 what is happening by the District Attorney in this case,
16 and also, it is important to step back, your Honor; to
17 realize this case has been investigated for three and a
18 half years.

19 Your Honor, one of the main investigators with
20 this office, left the office, wrote a book about this
21 investigation, published a book, and has talked about the
22 book publicly.

23 Thereafter, as I said, the People's main witness
24 has talked repeatedly, not only on the courthouse steps,
25 but on every news, every news show and print media. He has

1 written two books, he has a podcast all talking about the
2 case.

3 The President is running for reelection to be the
4 President of the United States.

5 I mean, imagine anybody in this courtroom that was
6 in that position, an investigation that lasted over three
7 years, over three years with leaks galore.

8 The People were right, we received a copy of the
9 indictment about 40 minutes ago. The media received a lot
10 of these hints about the indictment last Thursday night,
11 and a copy of the indictment last night apparently.

12 That is a grave injustice. The People didn't
13 address that. The People have not addressed the fact that
14 there is literally a violation of law that happened at some
15 point in the past five days with the illegal leaking of
16 charges against President Trump.

17 What they did address, is their frustration when
18 President Trump sees that, when he sees a legal leak
19 describing charges that he knows nothing about, when we
20 speak with the assigned ADA's, they correctly tell us they
21 can't share anything with us because it is sealed.

22 And then he's frustrated and comments publicly
23 about that; you can, I think, discuss words that are used,
24 but everyone of these posts are not threats, they are not
25 harassment, and rhetoric that maybe the People don't like,

1 sure. But, I think it is patently unfair, patently unfair
2 for somebody who is running for President of the United
3 States, for somebody who has sat by and watched for three
4 and a half years an investigation go on about a 130
5 thousand dollar payment before the last election, by the
6 way, to be frustrated and to speak publicly. He has
7 rights, he's allowed to speak publicly.

8 THE COURT: Okay. Certainly, of course Mr. Trump
9 does have rights, and I don't believe the People are asking
10 the Court to impose any kind of gag order. I didn't hear
11 that certainly.

12 MR. BLANCHE: Agreed.

13 THE COURT: Certainly, the Court would not impose
14 a gag order at this time even if it were requested.

15 Such restraints are the most serious and least
16 intolerable on First Amendment rights. That does apply
17 doubly to Mr. Trump, because he is a candidate for the
18 presidency of the United States. So, those First Amendment
19 rights are critically important, obviously.

20 I don't share your view that certain language and
21 certain rhetoric is just by frustration.

22 So, although I'm not going to issue a gag order
23 and not something close to a gag order, I would encourage
24 counsel on both sides, the People to please speak to your
25 witnesses. Defense counsel, speak to your client and

1 anybody else you need to, and remind them to please
2 refrain, please refrain from making statements that are
3 likely to incite violence or civil unrest.

4 Please refrain from making comments or engaging in
5 conduct that has the potential to incite violence, create
6 civil unrest, or jeopardize the safety or well-being of any
7 individuals.

8 Also, please do not engage in words or conduct
9 which jeopardizes the rule of law, particularly as it
10 applies to these proceedings in this courtroom.

11 This is a request I'm making. I'm not making it
12 an order. But now that I have made the request, if I were
13 to be handed something like this again in the future, I
14 have to take a closer look at it.

15 So, I ask you to please discuss that with your
16 client and the People also discuss it with your witnesses.

17 MR. CONROY: Judge, I just note for the record
18 that we have done so and will continue to do so, and do
19 everything we can to camp down on any witness comments in
20 public, but there is only so much we can do.

21 THE COURT: Thank you.

22 MS. MCCAWE: Thank you, your Honor. I would like
23 to address three matters before the Court today.

24 The first is the protective order the People are
25 in the process of working out with defense counsel.

1 The second issue is discovery. And the third
2 issue is scheduling.

3 So, to begin with, with respect to a protective
4 order, the People believe, especially in light of the
5 defendant's public comments, that a protective order is
6 vital to insure the sanctity of the proceedings as well as
7 the sanctity of the discovery materials.

8 We are in the process of working out a consent
9 protective order with defense counsel. We have had a
10 number of very productive conversations, and I believe that
11 we are very close to agreement and finalizing the language.

12 I expect that when we do reach an agreement, we
13 should be able to submit that language to the Court within
14 the next few days, hopefully.

15 One thing I would like to highlight, however, is
16 that the proposed order, should the Court enter it, would
17 have terms that would be binding not solely on defense
18 counsel, but also on the defendant himself, and that should
19 the defendant fail to abide by these terms, it could have
20 the effect of being in contempt of court.

21 So, I just want to highlight the three terms.
22 These are terms which the defense and the People have
23 reached broad agreement.

24 The first is that the defendant may not use any of
25 the materials that the People produce for any purpose,

1 other than to prepare a defense in this case.

2 The second is the defendant will be permitted to
3 review certain sensitive materials, only in his attorney's
4 office, and he may not take copies of the documents,
5 portions of the documents, notes he took of the documents,
6 et cetera, with him after he leave his attorney's offices.

7 And third, and perhaps most importantly, defendant
8 may not provide the materials he receives through the
9 discovery process to any third party, including the press,
10 and he may not post them to social media.

11 And I would note again, for the record, that
12 should the defendant after the Court enters an order
13 violate any of the materials of this protective order, he
14 could be in contempt of Court.

15 THE COURT: Before you move on to discovery, I'll
16 turn to defense counsel. Are you working on a protective
17 order?

18 MS. NECHELES: Yes, your Honor, thank you.

19 We are working on it together. We hope to reach
20 an agreement. We just received another copy of it.

21 I will note that the People in their statement of
22 facts here have laid out what they I assume contend the
23 grand jury evidence and the testimony showed. So, I'm
24 concerned and we need to go back and discuss this.

25 It seemed fundamentally incorrect for the People

1 to be able to put out into the public a statement of what
2 they believe the facts are, and for the defense and someone
3 who is defending his career, his reputation, everything
4 that he's built in his entire life for him not to be able
5 to respond in the same manner.

6 So, we need to look at what is in here and have
7 further discussions. We hope to do that promptly.

8 THE COURT: I hope you are able to come to a
9 meeting of the minds in the protect order so I all I have
10 to do is sign it.

11 MR. TACOPINA: One thing on the protective order.
12 I know the D.A said the review by the defendant would have
13 to be in the attorney's office. That will not happen. I
14 thought it was in the attorney's presence. We would meet
15 most likely at the office of President Trump.

16 THE COURT: All right, since you are still
17 negotiating, I will not weigh in at this time.

18 If you reach an impasse and you need my help in
19 resolving anything, let me know and I'll try to help out.
20 Now, the issue of discovery.

21 MS. MCCAWE: Yes, your Honor. Once a protective
22 order is in place, the People expect they will be able to
23 begin making rolling productions of discovery. We expect
24 the productions of discovery will take place, broadly
25 speaking, in three stages.

1 The first stage of materials will be materials
2 that consist of grand jury minutes and exhibits, as well as
3 notes of witness statements for those witnesses who
4 testified in the grand jury.

5 We expect we will be able to provide those
6 materials to the defense within a week assuming an
7 appropriate protective order is in place.

8 The second stage of discovery will consist of
9 subpoena compliance, other witness materials, as well as
10 some police documents and other odds and ends.

11 We believe this group of discovery materials will
12 be the bulk of the People's additional discovery materials,
13 and we expect we will be able to produce those materials
14 within the 65 days allocated by the statute for voluminous
15 discovery materials.

16 There will probably be a third stage of discovery
17 that may consist of materials, such as internal District
18 Attorney's e-mail messages. We don't yet have any sort of
19 visibility as to how long the production of those materials
20 would take.

21 I should note for the record, we believe the
22 materials that we produce in the first and second stages,
23 particularly the grand jury materials in the first stage,
24 will be the most important materials that the People will
25 provide.

1 We also would like to note for the record, that we
2 understand there is an intense public interest in moving
3 this case along as expeditiously as possible.

4 The People intend to request a trial date in
5 January of 2024. So, we would like to produce these
6 materials to the defense as quickly as possible to allow
7 the defense ample time to prepare for a trial in January of
8 2024.

9 THE COURT: All right, would you like to be
10 heard?

11 MR. BLANCHE: Your Honor, I'll not repeat what I
12 said before. This has been a long investigation. We don't
13 have any discovery yet.

14 The People, and certainly the President wants this
15 behind him. But, to sit here and say January of 2024 is
16 good with us when we have not seen a piece of paper yet, is
17 I think patently unfair for us, given everything that I
18 think we know about the case from the media and from
19 witnesses talking, and what we know. But certainly, we
20 think that is a little bit aggressive.

21 We think later in the spring next year might be a
22 more realistic, a more realistic plan at this point. But
23 I'm speculating a bit because we have not seen anything
24 yet.

25 THE COURT: All right, I understand what you are

1 saying. I think that is reasonable. You have not received
2 discovery. It is difficult to anticipate if you will be
3 ready for trial in January of 2024.

4 The message I would like to deliver is we would
5 like to move ahead as expeditiously as possible, without
6 undue delay.

7 Of course, you are entitled to the discovery, you
8 are entitled to review the discovery and make
9 determinations there. Okay.

10 MS. MCCAWE: Thank you, your Honor. The next topic
11 we would like to discuss is a schedule going forward.

12 I believe that the next step would be to set an
13 appropriate motion schedule.

14 The People have dates they would be willing to
15 propose, but I understand as well that you might want to
16 hear from the defense.

17 THE COURT: I would. So, you know, ordinarily
18 you get 45 days. I know this is a much more complex case.
19 As you have seen in a couple of recent cases I presided
20 over, I did extend the motion schedule. What did you have
21 in mind?

22 MR. BLANCHE: Thank you, your Honor. We
23 appreciate the consideration.

24 I would like to answer that in two parts, if I
25 could. One, we strongly believe there will be substantive

1 motions addressing the substantive facts of the indictment
2 that could be dispositive.

3 Those motions certainly may, after we reviewed
4 discovery, because we rely in part on the materials
5 produced from the People. That being said, we are -- we do
6 believe that to move the case along expeditiously, there
7 may be other motions that do not need to wait for the
8 substantive motions several months from now after the
9 conclusion of discovery.

10 And, so for example, the potential bill of
11 particulars. We just got the statement of facts today.
12 That might also be something we need before we start going
13 through all the discovery.

14 So, what we would ask your Honor is we have an
15 opportunity to study the indictment beyond the half an hour
16 or so we had so far. Continue to think about potential
17 motions and potentially file motions in two parts.

18 So, motions -- and we will communicate with the
19 People and with the Court as we land on the specifics of
20 which motions and the timing, but some of the motions
21 potentially dismissing the indictment after we had a chance
22 to review discovery. So, I don't know if it is worth
23 setting a date now. But if the Court would like to, we say
24 at least six weeks after discovery has been concluded, and
25 for other potential motions that we will reach out to the

1 Court about, we would ask to have a month to file those
2 motions or to at least inform the Court of what motions we
3 intend to file.

4 THE COURT: So, People, when do you expect to
5 complete your are discovery?

6 MS. MCCAWE: As I indicated, your Honor, we believe
7 that the vast majority of the materials will be turned over
8 to the defense within 65 days of the arraignment.

9 You know, there might be some additional straggler
10 materials; especially the e-mail review, internal e-mail
11 review from the District Attorney's Office.

12 That said, however, I don't believe the materials
13 that would be coming post 65 days would be particularly
14 meaningful.

15 Obviously, defense is entitled to see every single
16 e-mail discovery in this case, but those e-mail messages
17 tend not to be the most significant materials.

18 I would also like to say that to the extent that
19 the defense does intend to file a set of motions
20 immediately, and wants additional time after the discovery
21 is complete to file a second set, we ask a motion schedule
22 be set at this date for the first set of motions rather
23 than waiting for a later date to set that motion schedule.

24 THE COURT: All right, so the 65 days would bring
25 us out to almost mid June, at this point.

1 I'm not in favor of splitting this up into two
2 sets of motions. I'll set one motion schedule, which I
3 believe will be reasonable. If you disagree, let me know.

4 I think four months would be more than sufficient
5 for you to be able to address your motions, so that would
6 bring us out to August eighth. And so, by August eighth or
7 before, please file any and all motions.

8 MR. BLANCHE: Thank you, your Honor. Just one
9 caveat. To the extent we do believe we need to file a
10 motion in advance of that, we will alert the People and
11 Court, and obviously your Honor can guide us.

12 But, those dates you just described, assuming the
13 schedule stays as the People have suggested works with us.

14 THE COURT: All right, so that would bring the
15 People to, let me check my math here, I believe that brings
16 the People's response to around September fifth.

17 MS. MCCAW: Your Honor, if they are having six
18 weeks, we appreciate six weeks as well. That brings us to
19 September 19th, if that is possible.

20 THE COURT: I'm not giving them six weeks. I'm
21 giving them basically four months from today to complete
22 all of their motions. That is what brings us out to about
23 August eighth.

24 MS. MCCAW: So, if we could get six weeks from the
25 date of the filing of their motions, in light of the amount

1 of time they will have had to prepare the motions, we
2 request a date of September 19th.

3 THE COURT: Okay. People's response off
4 calendar. Defense motions to be filed off calendar.
5 People's response is to be filed off calendar also by
6 September 19th. I believe that covers the three issues you
7 wished to address.

8 MS. MCCAWE: That is correct, your Honor.

9 THE COURT: Mr. Tacopina, Mr. Trump. The People
10 have asked me to discuss with you the possibility of Mr.
11 Tacopina might be conflicted out of this case.

12 MR. TACOPINA: Can I address some things said?

13 THE COURT: Sorry?

14 MR. TACOPINA: Can I address some things that were
15 mentioned by the District Attorney regarding that?

16 THE COURT: Sure, go ahead.

17 MR. TACOPINA: Just to give you some actual
18 context, and whatever the Court deems necessary we can have
19 whatever the Court deems necessary.

20 To be clear, we received last night, for the first
21 time, a letter from a Clark Brewster, an attorney
22 apparently representing Stormy Daniels, that was lauded
23 with factual inaccuracies.

24 First and foremost, I never met Stormy Daniels. I
25 never spoke to Stormy Daniels, and I never reviewed any

1 documents of Stormy Daniels.

2 I know we are not doing a full-blown hearing here,
3 but I want to give the Court some context.

4 She called my office, like many people do, and
5 tried to hire me or asked about hiring me.

6 She spoke to an associate and paralegal. Gave
7 some facts. Sent over a document, and it went no further
8 than that.

9 We refused the case. I did not offer her
10 representation. Didn't speak to her. Didn't meet with
11 her. And it is as simple as that.

12 Of course, there is a rule governing that in New
13 York State, the rule of ethics. Rule one point 18
14 regarding the duties to prospective clients. And most
15 importantly, what has to happen here is I have to be in
16 possession of information that is significantly harmful to
17 the person in the matter.

18 I know we are not doing a full-blown hearing. I
19 just want to put some things on the record.

20 Your Honor, that first of all does not exist.
21 Everything she sent us wound up in her book. So, there is
22 not obviously any privilege, and any that existed was
23 waived.

24 But moreover, I learned I have documents
25 supporting this, that Ms. Daniels, or Ms. Clifford,

1 whatever her name is, signed a waiver, an attorney client
2 waiver when she turned over all attorney client
3 communications to the federal prosecutors in the Southern
4 District, hereby waiving any attorney client privilege to
5 begin with.

6 She testified in open court about her attempt to
7 secure representation prior to retaining Mr. Avenatti.

8 She wrote a book regarding everything that had to
9 do with potential representation and the document at hand.

10 And unless there was ever a point where the Court
11 deemed there was a conflict, which I submit based on this
12 there is not, we can submit in writing our position from
13 Michael Ross, who is one of the most important ethical
14 lawyers in the city.

15 More importantly, if we got to that point, we are
16 not to that point, the remedy would be I do not participate
17 in her examination.

18 There are three different law firms here. It is
19 as simple as that. So obviously, I wanted to give the
20 Court our position on the factual assessment.

21 THE COURT: People, what was your basis for
22 believing there might be a conflict?

23 MR. CONROY: Judge, it is a combination of the
24 letter we received, which I can file with the Court in
25 short order.

1 And also, I believe there had been comments made
2 on various TV networks, perhaps even by Mr. Tacopina, and
3 there were some privileged conversations between them.

4 If the Court -- obviously, if there will be
5 submissions, we are happy to engage in that process.

6 Again, we wanted to alert the Court to the
7 potential issue, and I think it is a real potential issue
8 that needs to be explored.

9 THE COURT: Okay, so that is your position. Mr.
10 Tacopina refutes that. So, what I would ask is if there
11 comes a point you would like to submit a motion on this, I
12 will certainly welcome it.

13 In the meantime, I do believe I have an obligation
14 to address both Mr. Tacopina and Mr. Trump with regard to
15 this.

16 So, Mr. Tacopina, Mr. Trump, as you know, you have
17 an absolute right to conflict-free representation.

18 The People have alleged that there is a potential,
19 Mr. Tacopina has a conflict, and the basis for their belief
20 is that he may have represented a former client who is a
21 witness in this case.

22 At this point, I'm not making any findings of
23 fact. I'm not deciding who is telling the truth or who is
24 not telling the truth.

25 I simply want to inform you that because it is an

1 important right. I also want to -- first, do you
2 understand that right, Mr. Trump?

3 DEFENDANT MR. TRUMP: Yes.

4 THE COURT: And therefore, People are not filing a
5 motion at this time, but you are certainly welcome if you
6 wish between now and then to consult with other counsel,
7 run this issue by them and see how you feel about it when
8 it it's over, okay?

9 DEFENDANT MR. TRUMP: Okay, thank you.

10 THE COURT: All right, I believe the only other
11 issue is the Parker issue.

12 MR. CONROY: Correct, Judge.

13 THE COURT: So, Mr. Trump, the People asked me to
14 give you what are called Parker warnings.

15 I want you to know I would have given you these
16 warnings whether they asked for them or not.

17 This is something I do with every individual who
18 appears before me in the courtroom. Please bear with me as
19 I do this.

20 You have the right to be present at every stage of
21 the proceedings in your case. At every proceeding involved
22 in the case, and that is obviously a very, very important
23 right because it allows you to assist your attorneys in
24 your defense of you.

25 It allows them to consult with you in your defense

1 of you. I think it is definitely advantageous to have the
2 jurors, if there is a jury, to see you present.

3 So, for all those reasons, I'm sure you can
4 appreciate the right to be present at your trial and your
5 proceedings is important.

6 I'm required by law to inform you that there are
7 ways that you can waive your right to be present at these
8 proceedings.

9 Specifically, I would like to refer to two
10 specific areas. You can waive your right to be present if
11 you voluntarily absent yourself from the proceedings.

12 So, if it is determined that at some point down
13 the road you are not present at some stage because you
14 chose not to be present, I do have the authority, I do have
15 the right to find you voluntarily waived your right to be
16 present and continue the proceedings in your absence. Do
17 you understand that?

18 DEFENDANT MR. TRUMP: Yes.

19 THE COURT: A second way you can lose your right
20 or waive your right is to become disruptive, and I do not
21 have any reason to believe that will happen. But, if you
22 become disruptive to such a degree that it affects my
23 ability to preside over this case and my ability to insure
24 that the case is treated the way it needs to be treated for
25 both sides, I do have the authority to remove you from the

1 courtroom and continue in your absense, do you understand
2 that?

3 DEFENDANT MR. TRUMP: I do.

4 THE COURT: All right, if either one of those
5 situations were to happen, and the case were to go to
6 trial, we would go to trial without you.

7 If there were a verdict and that verdict were to
8 be guilty, we would be able to take that verdict without
9 you. And if there were to be a time for sentencing, we
10 would be able to impose sentence without you. Do you
11 understand?

12 DEFENDANT MR. TRUMP: Yes.

13 THE COURT: I think we need to set an adjourned
14 date.

15 Having read Mr. Trump his Parker warnings, Mr.
16 Trump will be released on his own recognizance. So we
17 picked September 19th for People's response?

18 MS. MCCAWE: Yes, your Honor.

19 THE COURT: All right, lets set this down for
20 December fourth, for the Court's decision on the motions.

21 That will be here in person. So again, defense
22 motion filed off calendar. People's response filed off
23 calendar, but we will meet back here in person on December
24 fourth for the Court's decision on the motions.

25 If for some reason I'm unable to have my decisions

1 ready or not all the decisions ready, I will certainly let
2 you know.

3 MR. BLANCHE: Judge, very, very briefly on the
4 adjourned date. I am just stating the obvious that having
5 President Trump in this courtroom today is extraordinarily
6 burdensome and expensive on the city, and with the security
7 issues that have taken place to allow us to be here today.

8 I do not know, your Honor, we have to decide this
9 today, but we may ask that President Trump, his presence be
10 waived just for that date.

11 We will speak with the President and with others
12 in advance if necessary to request that of the Court.

13 THE COURT: You probably don't know now because
14 you are not making the application. What would be the
15 reason asking to waive his appearance?

16 MR. BLANCHE: Just simply the fact the incredible
17 expense and effort and security issues that present
18 themselves with the President traveling and being in
19 court. All of lower Manhattan was shut down today.

20 To the extent it is a conference or a decision
21 that is announced, not anything that requires us to
22 simultaneously consult with President Trump, we may ask his
23 presence be waived.

24 THE COURT: Would you like to be heard?

25 MR. CONROY: Judge, I would just say, as I'm sure

1 you know, our general preference is defendants be in court
2 on the court date.

3 We also recognize, as counsel explained, the
4 immense burden that places on the court system and on lower
5 Manhattan. So we would defer to your Honor's decision on
6 that.

7 THE COURT: Well, there is no question this was a
8 huge undertaking today for everyone involved, from Mr.
9 Trump, the prosecution, the city, courts, there is no
10 question about that.

11 At the same time, today is April 4th and we are
12 looking at the first adjournment in December, that is quite
13 a ways out.

14 You know, if a reason were to come up that your
15 client was unable to appear on that date; something
16 unanticipated, you can certainly run that by me.

17 But in the same way I expect all other defendants
18 to appear in court, even high profile defendants, and I
19 agree, we wish we could avoid all these logistical
20 challenges. I think in the interest of transparency and
21 assuring the rules of law evenhandedly, at this time I'm
22 going to deny your application.

23 If you have another one to make later, you can.

24 MR. BLANCHE: Thank you. To be clear, I was not
25 suggesting President Trump does not want to be here.

1 I'm suggesting having lived the past several hours
2 as your Honor has as well and the expense this costs the
3 city just for an arraignment, that was a reason for
4 bringing this up today.

5 I appreciate the Court's guidance. To the extent
6 we need to, we will revisit it.

7 THE COURT: What you said is true, and I agree.
8 Thank you all very much.

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 I, Randy Berkowitz, a senior court reporter in and
 for the State of New York, do hereby certify that the
 foregoing transcript is true and accurate to the best of my
 knowledge, skill and ability.

 Randy Berkowitz,
 Senior Court Reporter