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Via Email

Honorable Juan M. Merchan

Judge - Court of Claims | Acting Justice - Supreme Court, Criminal Term

Re: People v. Trump, Ind. No. 71543/23

Dear Justice Merchan:

We respectfully submit this pre-motion letter seeking leave to file a motion for recusal, pursuant to Judiciary Law § 14 and Canons 2 and 3, based on changed circumstances and newly discovered evidence.

In August 2023, the Court reasoned that recusal was not warranted because President Trump had presented only “speculative and hypothetical scenarios.” The scenarios identified by the defense have come to pass. President Trump is the presumptive Republican nominee for president in the 2024 election. Your Honor’s daughter is an executive and partner at Authentic Campaigns, Inc. As recently as February and March 2024, Authentic has used social media to market its connections to President Biden and Vice President Harris while deriding President Trump. Authentic and Your Honor’s daughter are making money by supporting the creation and dissemination of campaign advocacy for President Trump’s opponent, political rivals, and the Democrat party. It can no longer be ignored that Authentic’s commercial interests are benefitted by developments in this case that harm President Trump’s penal interests and divert his efforts from running his leading campaign for the presidency by requiring him to prepare and sit for trial during the general election. The trial in this case will benefit Authentic financially by providing its clients more fodder for fundraising, Authentic will make more money by assisting with those communications, and Your Honor’s daughter will continue to earn money from these developments by virtue of her senior role at Authentic.

The ethics opinion relied on by the Court to deny the prior recusal motion emphasized that “[w]e see nothing in the inquiry to suggest that the outcome of the case could have any effect on the judge’s relative, the relative’s business, or any of their interests.” The Court declined to share its “inquiry,” but any such omission can now be addressed. According to filings with the Federal Election Commission, Authentic has received millions of dollars in disbursements from entities associated with President Trump’s political rivals since the Indictment was returned. Some of those funds were paid to Authentic by entities associated with legislators and PACs that have used email and/or social media to solicit contributions specifically based on this case. Thus, there is strong evidence that Authentic has used this case to make money. Those benefits and the ongoing financial interest cannot be ignored.

Compounding these issues, the Court imposed a gag order on President Trump that restricts his ability to engage in protected campaign speech, and the Court is considering expanding that prior restraint. In addition, the Court appears to have made extrajudicial comments about the case while failing to rule on a pending defense request to file a motion for an adjournment based on prejudicial pretrial publicity.¹ Last week, the Court used the Office of Court Administration to issue a statement relating to an X account used at some point by Your Honor’s daughter.² As public scrutiny on these issues increased, the account in question appears to have been closed to the public. So too has Authentic’s X account, thereby limiting President Trump’s ability to investigate these issues.

Under these circumstances, Your Honor has an interest in this case that warrants recusal, Judiciary Law § 14; there is an unacceptable risk that the Court’s family relationships will influence judicial conduct, 22 NYCRR § 100.2(B); and the Court’s impartiality “might reasonably be questioned,” *id.* § 100.3(E). Therefore, President Trump respectfully requests permission to file a motion in support of these arguments that includes briefing and evidence on Wednesday, April 3, 2024.

¹ <https://apnews.com/article/trump-hush-money-criminal-trial-judge-merchan-c227f5eab200cccffb19ed931b4dac92>.

² <https://thehill.com/regulation/court-battles/4561622-trump-attacks-on-judges-daughter-based-on-fake-account-court>.

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Respectfully Submitted,

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