



April 17, 2024

New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

URGENT

Re: Judicial Complaint Against Judge Juan Merchan
Supreme Court, New York County
Case Name: *The People of the State of New York v. Trump*
Index No.: 71543-23

Dear Commission Members:

I write to express the public's disgust about the rank and egregious inappropriate and unethical bias, judicial intemperance and financial interest shown by Judge Juan Merchan and his daughter in the State of New York's lawsuit against President Donald J. Trump. This judge's unethical behavior is not just an affront to the legal system, it has no place in our judicial system, where he is not honoring the defendant's rights to due process and a fair trial. These serious ethics violations are exacerbated by the fact that the defendant is a leading candidate for President of the United States, and the judicial system is being politicized to affect the outcome of the 2024 election.

Simply put, Judge Merchan has displayed an unabashed and blatant clear judicial bias against the defendant throughout the case, breaking several rules in the New York Code of Judicial Conduct.

Judge Merchan's daughter, Loren Merchan, has served as president at Authentic Campaigns, which has worked for numerous Democratic clients on digital and placement, fundraising list acquisition and other digital consulting.¹ The progressive firm's past and current clients include President Joe Biden's 2020 campaign, Vice President Kamala Harris' 2020 presidential campaign, pro-Democrat super PAC Senate Majority PAC (SMP) and Rep. Adam Schiff's current Senate and past House campaigns – the lead prosecutor in Trump's first impeachment trial.² Specifically, Authentic has used this case to make money. Those benefits and the ongoing financial interest Judge Merchan and his daughter possess cannot be ignored any longer. Judge Merchan's daughter continues to earn money because developments in this criminal trial create convenient opportunities for fundraising.

¹ Faulders, Katherine, Katersky, Aaron Charalambous, Peter, "Trump's Lawyers Push for Recusal of Judge Juan Merchan in Hush Money Case," ABC News, April 2, 2024, <https://abcnews.go.com/US/trumps-lawyers-push-recusal-judge-juan-merchan-hush/story?id=108748916>.

² *Id.*

Indeed, it is quite clear that Authentic has made money by assisting clients who have solicited donations using communications that specifically reference this case. The Court’s rulings stand to further benefit those clients by harming President Trump, while Loren Merchan and Authentic make money in the process. This is in clear violation of Section 100.4(D)(1)(A) of the New York Code of Judicial Conduct. “A judge shall not engage in financial and business dealings that[] may reasonably be perceived to exploit the judge’s judicial position[.]”³

Importantly, the Commentary for this Canon sets forth the necessity for abiding by the rule. “A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge’s court.⁴ In addition, *a judge should discourage members of the judge’s family from engaging in dealings that would reasonably appear to exploit the judge’s judicial position.*”⁵ (emphasis added). Here, the Judge’s daughter is engaged in dealings that, of course, exploit the judge’s judicial position. Section 100.2(B) states: “A judge shall not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment.”⁶ Moreover, section 100.3(E)(1), (d)(iii) states: “A judge shall disqualify himself or herself in a proceeding in which a judge’s impartiality might reasonably be questioned, including but not limited to instances where: []the judge knows that the judge or the judge’s spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such person: []has an interest that could be substantially affected by the proceeding[.]”⁷ The actions taken by Judge Merchan in this case and his alleged impartiality are reasonably questioned by any rational person and are therefore in violation of the New York Code of Judicial Conduct. To put it bluntly, Judge Juan Merchan’s conduct is a disgrace.

Furthermore, Section 100.5(A)(2)(4)(a) states: “A judge or a non-judge who is a candidate for public election to judicial office: []shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, *and shall encourage members of the candidate’s family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate[.]*”⁸ (emphasis added). Not only did Loren Merchan work as the director of digital persuasion for now-Vice President Kamala Harris’ 2020 presidential campaign,⁹ it has been reported that she posted an incendiary picture of former President Trump behind bars, insinuating that the former President is guilty in the very trial her father presides over. This is precisely the type of behavior the New York Code of Judicial Conduct seeks to prevent.

³ “Part 100. Judicial Conduct,” NYCOURTS.GOV, accessed April 10, 2024:

<https://ww2.nycourts.gov/rules/chiefadmin/100.shtml>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Cohen, Marshall, “Breaking Down Trump’s Attacks on the Daughter of the Judge in his New York Hush-Money Trial,” CNN, April 7, 2024, <https://www.cnn.com/2024/04/06/politics/trump-judge-daughter-attacks-explainer/index.html>.

Judge Merchan's and his daughter's financial interest in this case are also in violation of section 100.3(E)(1), (c) "A judge shall disqualify himself or herself in a proceeding in which a judge's impartiality might reasonably be questioned, including but not limited to instances where: [t]he judge knows that he or she, individually or as a fiduciary, or the judge's spouse or minor child residing the judge's household has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceeding[.]"¹⁰ Two major Democratic clients of Loren Merchan have raised at least \$93 million in campaign donations – *and used the case in their solicitation emails* – proving that Judge Merchan has a clear-cut conflict of interest in this case.¹¹

Judge Merchan's financial interest in this case is only part of the violations of the New York Code of Judicial Conduct. Judge Merchan twice gagged President Trump for merely criticizing a family member and Manhattan prosecutor Alvin Bragg, which are core political speeches protected by the First Amendment. If anyone in the United States must have the constitutional right to speak out against the judge, his staff or the process, it's a defendant going through a process he believes is politicized and weaponized against him. To gag a defendant in a case such as this is un-American. It is an illegal restraint on the defendant's First Amendment rights, which even the leftist ACLU acknowledged in another case after Democrat judge – U.S. District Court for the District of Columbia Judge Tanya Chutkan – illegally gagged President Trump.¹² Indeed, three (3) Democrat-appointed judgments on the U.C. Court of Appeals for the District of Columbia Circuit have since stayed Judge Chutkan's illegal gag order.¹³

Section 100.2(A) states: "A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."¹⁴ Judge Merchan has grossly and defiantly failed to do this. Indeed, the Commentary on this Canon is relevant. "A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly."¹⁵

Commission sanctions against Judge Merchan are necessary to restore credibility to New York state's legal system, and to maintain any confidence which is left with our judicial system as a whole. All Americans, including political opponents, must receive due process and equal protection under the U.S. and New York Constitutions. Judge Merchan's and his daughter's

¹⁰ "Part 100. Judicial Conduct," NYCOURTS.GOV, accessed April 10, 2024:

<https://ww2.nycourts.gov/rules/chiefadmin/100.shtml>.

¹¹ Calder, Rich, Levine, Jon, "Dem Clients of Daughter of NY Judge in Trump Hush-Money Trial Raised \$93M Off the Case," The New York Post, March 30, 2024, <https://nypost.com/2024/03/30/us-news/dem-clients-of-daughter-of-judge-in-trump-trial-raised-90m-off-case/>.

¹² Gerstein, Josh, "ACLU: Trump's Gag Order in Federal Case Is Unconstitutional," Politico, October 25, 2023, <https://www.politico.com/news/2023/10/25/aclu-trump-gag-order-00123541>.

¹³ Legare, Robert, "Appeals Court Pauses Trump Gag Order in 2020 Election Interference Case," CBS News, November 3, 2023, <https://www.cbsnews.com/news/appeals-court-pauses-trump-gag-order-2020-election-interference-case/>.

¹⁴ "Part 100. Judicial Conduct," NYCOURTS.GOV, accessed April 9, 2024:

<https://ww2.nycourts.gov/rules/chiefadmin/100.shtml>.

¹⁵ *Id.*

disdain for President Trump and his politics are abundantly evident, and the Commission must take strong corrective action now to restore a just process and protect our constitutional rights.

Thank you for your prompt attention and consideration of this judicial complaint against Judge Juan Merchan for his inappropriate bias and financial interest in *The People of State of New York v. Trump*, Index No: 71543-23. He must be severely sanctioned and also removed from any case involving former President Donald Trump. Contrary to Judge Juan Merchan, there must be other jurists who will act ethically and who respect the rule of law. This judge is clearly not one of them.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Klayman', with a long horizontal flourish extending to the right.

Larry Klayman
Chairman and General Counsel of Freedom Watch, Inc.
Founder of Judicial Watch and Freedom Watch, Inc.