

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E. JEAN CARROLL,

Plaintiff,

v.

DONALD J. TRUMP, in his personal capacity,

Defendant.

No. 20 Civ. 7311 (LAK) (JLC)

JOINT PRETRIAL ORDER

The parties having conferred among themselves and with the Court pursuant to Fed. R. Civ. P. 16, the following statements, directions and agreements are adopted as the Pretrial Order herein.

I. NATURE OF THE CASE

A. Plaintiff's Proposed Statement of the Case

In the fall of 1995 or spring of 1996, Plaintiff E. Jean Carroll, a journalist, writer, and advice columnist, encountered Defendant Donald J. Trump at the Bergdorf Goodman department store in New York City. Playful banter took a dark turn when Trump seized Carroll, forced her up against a dressing room wall, pinned her in place with his shoulder, and raped her. After Carroll managed to escape, she immediately called her friend Lisa Birnbach and told her what had happened. A day or two after the rape, Carroll confided in another close friend, Carol Martin. Carroll blamed herself for what had happened, felt embarrassment and shame, and feared what would happen if she spoke out. She swore her two friends to secrecy and did not speak about the rape again for more than two decades.

Everything changed for Carroll in 2017 when she was on a road trip interviewing women for a book she planned to write about their experiences with men. Inspired by the #MeToo movement, Carroll decided to include in her book her own negative experiences with men, including Trump's attack at Bergdorf's many years before. Carroll's book was published in 2019, and in advance of its release, on June 21, 2019, *New York Magazine* published an excerpt containing, among other things, Carroll's account of being raped by Trump.

Trump responded by publicly, falsely, and maliciously smearing Carroll's reputation three times over a four-day period. On June 21, 22, and 24, 2019, Trump denied that he raped Carroll and insisted they had never met. He also accused Carroll of lying about the rape to make money, to increase book sales, or to carry out a political agenda. He implied that she had falsely accused other unspecified men of sexual assault. And he insulted her physical appearance, implying that he could not have attacked her because "she's not my type"—in other words, that Carroll was too unattractive for him to have raped her. Trump made these statements knowing full well that they were false. He knew he had raped Carroll, and he has admitted not having any evidence supporting his claims about her financial or political motivation or about her supposedly false accusations against other men.

Trump's three defamatory statements caused Carroll to suffer reputational, emotional, and professional harm. She demands that Trump retract his statements and seeks compensatory and punitive damages.

B. Defendant's Proposed Statement of the Case

This action involves a single cause of action for defamation against the Defendant, Donald J. Trump, then sitting President of the United States, for statements he made in response to Plaintiff's allegations of sexual misconduct. Plaintiff's contentions arise out of an alleged incident

which she claims occurred at the Bergdorf Goodman store in New York, New York on an uncertain date “between the fall of 1995 and the spring of 1996.” Defendant wholly denies the veracity of Plaintiff’s claim and maintains that his denial of her allegations was truthful.

Accordingly, Defendant respectfully demands judgment dismissing the Complaint in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

II. JURY/NON-JURY

Carroll and Trump both request that this action be tried by jury. The parties estimate that the trial will take between 5 and 7 days.

III. STIPULATED FACTS

None.

IV. EXHIBITS

No exhibit not listed below may be used at trial except (a) for cross-examination purposes, (b) by plaintiff on rebuttal, or (c) if good cause for its exclusion from the pretrial order is shown.

A. Plaintiff’s Exhibits

The following is a list of exhibits Plaintiff intends to offer in her case-in-chief:

Exhibit No.	Document Description	Defendant’s Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-1	Trump’s June 21, 2019 statement (Laura Litvan tweet) (Defendant Dep. Ex. 20)			
PX-2	Trump’s June 22, 2019 statement (transcript of remarks before Marine One departure) (MP-001795) (Defendant Dep. Ex. 21)			

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-3	Trump's June 24, 2019 statement (article from <i>The Hill</i> : Jordan Fabian and Saagar Enjeti, <i>Trump Vehemently Denies E. Jean Carroll Allegation, Says "She's Not My Type"</i>) (Defendant Dep. Ex. 22)			
PX-4	Trump's October 12, 2022 statement (Truth Social post) (Defendant Dep. Ex. 28)			
PX-5	E. Jean Carroll's book: <i>What Do We Need Men For? A Modest Proposal</i> (2019) (Defendant Dep. Ex. 19)	Hearsay		
PX-6	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 21, 2019) (online version) (Plaintiff Dep. Ex. 4)	Hearsay		
PX-7	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 24, 2019) (print version) (CARROLL_024386, Plaintiff Dep. Ex. 3 (cover); CARROLL_024378 (article))	Hearsay		
PX-8	<i>New York Magazine</i> article: Lisa Birnbach, <i>Mi Casa Es Su Casa</i> (Feb. 12, 1996) (Defendant Dep. Ex. 1)	Hearsay		
PX-9	<i>People</i> article: Natasha Stoyanoff, <i>Happy Anniversary</i> (Jan. 16, 2006)	Hearsay		
PX-10	Publishing contract between E. Jean Carroll and St. Martin's Press, dated June 8, 2018 (CARROLL_015939)			

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-11	Contract between E. Jean Carroll and Hearst Magazine Media, dated January 28, 2019 (CARROLL_025665)			
PX-12	Photo of E. Jean Carroll, John Johnson, Donald J. Trump, and Ivanka Trump (CARROLL_030211) (Defendant Dep. Ex. 23; Plaintiff Dep. Ex. 2)			
PX-13	Photo of E. Jean Carroll from Miss Indiana photo shoot (CARROLL_030203)			
PX-14	Photo of E. Jean Carroll in 1998 (CARROLL_030201)			
PX-15	Photo of E. Jean Carroll eating at a restaurant, for the "Ask E. Jean" column (CARROLL_030242)			
PX-16	Photo of E. Jean Carroll looking out a window, for the "Ask E. Jean" column (CARROLL_030229)			
PX-17	Photo of Natasha Stoynoff with Donald Trump and others at Mar-a-Lago in December 2005	Irrelevant & unduly prejudicial		
PX-18	Photo of Jessica Leeds in 1978	Irrelevant & unduly prejudicial		
PX-19	Television graphic for <i>Ask E. Jean</i> Show (1995)			
PX-20	Bergdorf Goodman floorplan, dated March 23, 1990 (BG_0001)			
PX-21	Bergdorf Goodman floorplan, dated November 8, 1999 (BG_0011)			

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-22	Bergdorf Goodman Fifth Avenue Sixth Floor Construction Plan, dated May 19, 1995, and certified by the New York Department of Buildings (CARROLL_030804)			
PX-23	Bergdorf Goodman Fifth Avenue Sixth Floor Construction Plan, dated May 19, 1995, and certified by the New York Department of Buildings (CARROLL_030809)			
PX-24	Bergdorf Goodman Fifth Avenue Sixth Floor Plan, dated April 12, 1996, and certified by the New York Department of Buildings (CARROLL_030840)			
PX-25	Access Hollywood video recording of Donald J. Trump speaking to Billy Bush in September 2005 (Defendant Dep. Ex. 35)	Irrelevant & unduly prejudicial		
PX-26	September 26, 2016 Presidential debate video (Stoynoff Dep. Ex. 3; Leeds Dep. Ex. 1)	Irrelevant & unduly prejudicial		
PX-27	October 13, 2016 West Palm Beach campaign rally video (14:28-15:32) (Defendant Dep. Ex. 40)	Irrelevant & unduly prejudicial		
PX-28	October 13, 2016 West Palm Beach campaign rally video (17:32-17:57)	Irrelevant & unduly prejudicial		
PX-29	October 13, 2016 West Palm Beach campaign rally video (17:58-19:23) (Defendant Dep. Ex. 36)	Irrelevant & unduly prejudicial		
PX-30	October 14, 2016 Greensboro, NC campaign rally video (17:10-18:30)	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-31	October 14, 2016 Greensboro, NC campaign rally video (24:34-25:06) (Defendant Dep. Ex. 38)	Irrelevant & unduly prejudicial		
PX-32	October 21, 2016 Gettysburg, PA campaign rally video (9:44-10:06)	Irrelevant & unduly prejudicial		
PX-33	Video recording of the deposition of Cande Carroll dated October 4, 2022	Hearsay		
PX-34	Video recording of the deposition of Stephanie Grisham dated October 6, 2022	Hearsay		
PX-35	Video recording of the deposition of Natasha Stoynoff dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-36	Video recording of the deposition of Jessica Leeds dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-37	Video recording of the deposition of Donald J. Trump dated October 19, 2022			
PX-38	Transcript of the deposition of Cande Carroll dated October 4, 2022	Hearsay		
PX-39	Transcript of the deposition of Stephanie Grisham dated October 6, 2022	Hearsay		
PX-40	Transcript of the deposition of Natasha Stoynoff dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-41	Transcript of the deposition of Jessica Leeds dated October 13, 2022	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-42	Transcript of the deposition of Donald J. Trump dated October 19, 2022			
PX-43	Prof. Ashlee Humphreys demonstrative exhibit			
PX-44	Tweets @ejeancarroll by @typonow and @kittywaymo (June 21, 2019) (CARROLL_030264)			
PX-45	Tweets @ejeancarroll by @battlebornVT, @nycfla2, @MattSkyFather, @jillybean0313, @ProfSchlitzo7, @TrumpVoter9 (June 21 and 22, 2019) (CARROLL_030256)	Irrelevant (does not cite to Trump statements)		
PX-46	Tweet @ejeancarroll by @rightside4me (June 22, 2019) (CARROLL_030263)			
PX-47	Tweet @ejeancarroll by @theboydoutdoors (June 28, 2019) (CARROLL_030251)	Irrelevant & does not cite to statement		
PX-48	Email to e.jean@askejean.com from marianneofmaui@aol.com (June 21, 2019) (CARROLL_024499)	Id.		
PX-49	Email to e.jean@askejean.com from Anonymous (June 22, 2019) (CARROLL_024554)	Id.		
PX-50	Email to e.jean@askejean.com from sports_justice@gmx.com (June 22, 2019) (CARROLL_024559)	Id.		
PX-51	Email to e.jean@askejean.com from aaarocket37@gmail.com (June 22, 2019) (CARROLL_024562)	Id.		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-52	Email to e.jean@askejean.com from meg814@msn.com (June 22, 2019) (CARROLL_024640)	Id.		
PX-53	Email to ejeancarroll@gmail.com from lahey.s@shaw.ca (June 22, 2019) (CARROLL_024641)	Id.		
PX-54	Email to e.jean@askejean.com from dwdwdw10@hotmail.com (June 23, 2019) (CARROLL_024684)	Id.		
PX-55	Email to comment@askejean.com from coupclan1962@gmail.com (June 23, 2019) (CARROLL_024796)	Id.		
PX-56	Email to e.jean@askejean.com from rob702@gmx.com (June 25, 2019) (CARROLL_024944)	Id.		
PX-57	Email to e.jean@askejean.com; dori.weintraub@stmartins.com; slazin@aevitascreative.com; and awarren@aevitascreative.com from sports_justice@gmx.com (June 25, 2019) (CARROLL_024974)	Id.		
PX-58	Email to comment@askejean.com from zanderzax407@gmail.com (June 27, 2019) (CARROLL_025080)			
PX-59	Email to ejean@askejean.com from Anonymous (Jan. 4, 2020) (CARROLL_026329)	Irrelevant & does not cite to statement		
PX-60	Email to e.jean@askejean.com from scottie7389@outlook.com (Jan. 10, 2020) (CARROLL_026331)	Id.		
PX-61	Email to e.jean@askejean.com from imaseeker1@aol.com (Feb. 19, 2020) (CARROLL_026479)	Id.		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-62	Email to e.jean@askejean.com from bobrubby@hotmail.com (Sept. 8, 2020) (CARROLL_028058)	Id.		
PX-63	Email notification of Tweet @ejeancarroll by @tschuler (Sept. 9, 2020) (CARROLL_028063)	Id.		
PX-64	Email to ejeancarroll@gmail.com from samlupowitz@aol.com (Sept. 9, 2020) (CARROLL_028069)	Id.		
PX-65	Email to ejeancarroll@gmail.com from lsprywa@gmail.com (Sept. 9, 2020) (CARROLL_028115)	Id.		
PX-66	Facebook message from Joseph Rowland to E. Jean Carroll (Oct. 21, 2020) (CARROLL_028549)	Id.		
PX-67	Email to e.jean@askejean.com from nwrupertech@yahoo.com (Oct. 27, 2020) (CARROLL_028588)	Id.		
PX-68	Email to e.jean@askejean.com from kuke@dakotacom.net (June 8, 2021) (CARROLL_029331)	Id.		
PX-69	Facebook message from Isaac Blanchard to E. Jean Carroll (Mar. 11, 2022) (CARROLL_029774)	Id.		
PX-70	Facebook message from Michael Drury to E. Jean Carroll (June 21, 2019) (CARROLL_030118)	Id.		
PX-71	Facebook messages from Brian Flowers to E. Jean Carroll (June 22, 2019) (CARROLL_030119)	Id.		
PX-72	Facebook messages from VJ Zimmerman to E. Jean Carroll (June 22, 2019) (CARROLL_030120)	Id.		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-73	Facebook message from Renee Shipley to E. Jean Carroll (June 22, 2019) (CARROLL_030121)	Id.		
PX-74	Facebook message from Steve Barnet to E. Jean Carroll (June 22, 2019) (CARROLL_030122)	Id.		
PX-75	Facebook message from Patrick Harris to E. Jean Carroll (June 22, 2019) (CARROLL_030123)			
PX-76	Facebook message from Karen Marie Jacobsen Strunk to E. Jean Carroll (June 23, 2019) (CARROLL_030124)	Irrelevant & does not cite to statement		
PX-77	Facebook messages from Kathleen Woolard to E. Jean Carroll (June 22, 2019; July 24, 2019) (CARROLL_030126)			
PX-78	Facebook message from Tim Wolffis to E. Jean Carroll (June 23, 2019) (CARROLL_030127)	Irrelevant & does not cite to statement		
PX-79	Facebook messages from Nellie Marsell to E. Jean Carroll (June 23, 2019) (CARROLL_030128)	Id.		
PX-80	Facebook message from David Alan to E. Jean Carroll (June 24, 2019) (CARROLL_030131)	Id.		
PX-81	Facebook messages from Jeff Tucker to E. Jean Carroll (June 24, 2019; Sept. 8, 2020) (CARROLL_030133)	Id.		
PX-82	Facebook message from Patrick McDowell to E. Jean Carroll (June 24, 2019) (CARROLL_030134)	Id.		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-83	Facebook message from Norm Sargent to E. Jean Carroll (June 24, 2019) (CARROLL_030136)	Id.		
PX-84	Facebook message from Jamie Lynn Ockerman to E. Jean Carroll (June 25, 2019) (CARROLL_030137)	Id.		
PX-85	Facebook message from S.K. Bernethy to E. Jean Carroll (June 25, 2019) (CARROLL_030138)	Id.		
PX-86	Facebook message from Michael Hartman to E. Jean Carroll (June 26, 2019) (CARROLL_030142)	Id.		
PX-87	Facebook messages from Bill Kilby to E. Jean Carroll (June 27, 2019; Dec. 25, 2019) (CARROLL_030143)	Id.		
PX-88	Facebook message from Ken Nelson to E. Jean Carroll (June 27, 2019) (CARROLL_030145)	Id.		
PX-89	Facebook message from Memphis Raine to E. Jean Carroll (July 4, 2019) (CARROLL_030147)	Id.		
PX-90	Facebook message from Joanie Petersen to E. Jean Carroll (Nov. 8, 2019) (CARROLL_030150)	Id.		
PX-91	Facebook message from Larry Thomas to E. Jean Carroll (Jan. 31, 2020) (CARROLL_030151)	Id.		
PX-92	Facebook message from Bonnie Elizabeth Daily to E. Jean Carroll (Jan. 31, 2020) (CARROLL_030153)	Id.		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-93	Facebook messages from Ruby Shankles to E. Jean Carroll (Feb. 18, 2020) (CARROLL_030154)	Id.		
PX-94	Facebook message from Jen Burton to E. Jean Carroll (Oct. 27, 2020) (CARROLL_030155)	Id.		
PX-95	Facebook message from Stuart Campbell to E. Jean Carroll (Oct. 27, 2020) (CARROLL_030156)	Id.		
PX-96	Tweet @ejeancarroll by @firethornranch (June 21, 2019)	Id.		
PX-97	Tweet by @floccinaucini1 (June 21, 2019)			
PX-98	Tweet @ejeancarroll by @RunnerMo24 (June 21, 2019)	Irrelevant & does not cite to statement		
PX-99	Tweet @ShelbyTalcott and @DailyCaller by @PapaNeanderthal (June 22, 2019)	Id.		
PX-100	Tweet @nytimes by @DizZieNewz (Sept. 9, 2020)			
PX-101	Tweet @nytimes by @interruptedgirl (Sept. 12, 2020)			
PX-102	Tweet @dcexaminer by @BruceWe77516428 (Sept. 16, 2021)			

B. Defendant's Exhibits

The following is a list of exhibits Defendant intends to offer in his case-in-chief:

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-A	Bergdorf Goodman Floor Plan, floors one through ten, dated March 23, 1990 (BG_0001-0010)	None.	Yes.	Yes.
DX-B1	Bergdorf Goodman, Sixth Floor Renovation Plans (CARROLL_030800; 30804 – 30807- 30809; 30821; 30824; 30827; 30829; 30839-30840.)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.
DX-B2	Bergdorf Goodman, Sixth Floor Demolition Plans (CARROLL_030801; 30803; 30810; 30820)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.
DX-B3	Bergdorf Goodman, Sixth Floor Architectural Plans (CARROLL_030802; 30808; 30811 – 30819; 30822-30823; 30825 – 30826; 30828; 30830 – 30838)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.
DX-C	Expert Report of Robert J. Fisher dated November 13, 2022	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993); Stipulation re Operative Version of Report.	No.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-D	Transcript of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-E	Video Recording of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-F	Transcript of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-G	Video Recording of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-H	Transcript of the Deposition of Lisa Birnbach dated September 21, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 602, 801, and 802.	Yes.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-I	Transcript of the Deposition of Carol Martin dated October 18, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 602, 801, and 802.	Yes.	No.

V. GENERAL PROVISIONS, STIPULATIONS, AND OBJECTIONS WITH RESPECT TO EXHIBITS

Any objections not set forth herein will be considered waived absent good cause shown.

See chart above in Section IV for stipulations and objections with respect to exhibits.

VI. PLAINTIFF'S WITNESS LIST

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party's case-in-chief absent good cause shown.

Plaintiff may call at trial the following:

- E. Jean Carroll
- Lisa Birnbach
- Carol Martin
- Cande Carroll
- Stephanie Grisham
- Roberta Myers
- Natasha Stoyloff
- Jessica Leeds
- Cheryl Beall
- Robert Salerno
- Prof. Ashlee Humphreys

VII. DEFENDANT’S WITNESS LIST

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party’s case-in-chief absent good cause shown.

Excepting rebuttal or impeachment, Defendant may call at trial the following:

- Donald J. Trump
- Lisa Birnbach
- Anderson Cooper
- David Haskell
- Elizabeth Dyssegaard
- Erin Hobday
- Laurie Abraham
- Sarah Lazin
- Robert J. Fisher

VIII. RELIEF SOUGHT

Carroll seeks an order that Trump retract all defamatory statements and seeks compensatory and punitive damages for the harms caused by Trump’s defamatory statements. Carroll also seeks pre- and post-judgment interest, costs, and such other and further relief as this Court may deem just and proper.

Defendant respectfully demands judgment dismissing this action in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

Dated: February 9, 2023

Respectfully submitted,

/s/ Alina Habba

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Counsel for Plaintiff E. Jean Carroll

IT IS SO ORDERED this ____ day of _____, 2023.

The Hon. Lewis A. Kaplan
United States District Judge