

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 :
 UNITED STATES OF AMERICA :
 :
 - v - :
 :
 MICHAEL AVENATTI, :
 :
 Defendant. :
 :
 -----X

19 Cr. 374 (JMF)

ORDER

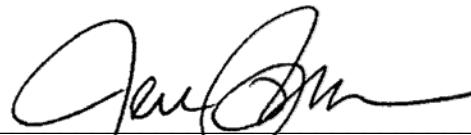
JESSE M. FURMAN, United States District Judge:

Attached to this Order are the following:

- The notes received from the jury (Court Exhibits 1-4);
- The supplemental instructions provided to the jury during its deliberations (Court Exhibits 5-7); and
- The jury verdict form (Court Exhibit 8).

SO ORDERED.

Dated: February 4, 2022
New York, New York



JESSE M. FURMAN
United States District Judge

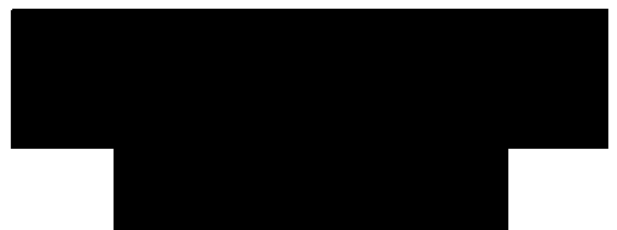
JURY NOTE

We are unable to come to a
consensus on Count 1.

What are our next steps?

Date: 2/3/22

Time: 10:37



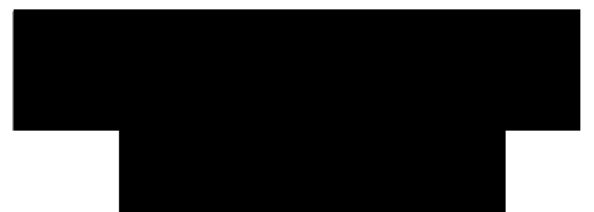
JURY NOTE

① We are requesting the full transcript for the full testimony of Stormy Daniels (Stephanie Clifford) that began on Thursday Jan 27th → Friday Jan 28th.

② Please define "good faith" as mentioned in the Judge's instructions.

Date: 2/3/22

Time: 2:10



JURY NOTE

We have one juror who is refusing to look at evidence and is acting on a feeling. We need assistance on moving forward.

She does not believe she needs to prove her side using evidence and refuses to show us how she has come to her conclusion. Please help us move forward. Not going on any evidence, all emotions and does not understand this job of a jury.

Date: 2/4/22

Time: 10:02

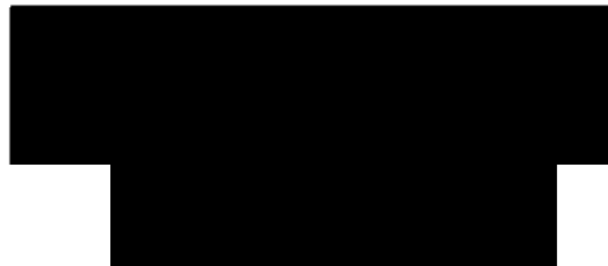
JURY NOTE

Court Exhibit 4

We have a verdict.

Date: 2/4/22

Time: 2:33



1 **Response to Jury Note #1**

2 As I instructed you yesterday, in order to return a verdict in this case, each juror must
3 agree as to each count. In other words, your verdict must be unanimous. You should, therefore,
4 consider all the evidence in the case and fully deliberate upon that evidence in a conscientious
5 manner. Remember to follow all of my instructions, including my instruction that, at all times,
6 the Government has the burden of proof beyond a reasonable doubt. Also remember your oath,
7 when you were sworn in as jurors, that you would try this case and attempt to render a true
8 verdict according to the evidence and the law.

9 [Although each juror must decide the case for him or herself, this should be done after an
10 impartial consideration of all the evidence with your fellow jurors. In the course of your
11 deliberations as a juror, you must examine everybody's point of view. You should not hesitate to
12 reexamine your own views and to change your opinion if you are convinced that it is erroneous.
13 There is no reason to believe that if this case were to be tried again that another jury would be
14 any more intelligent, more impartial, or more competent to decide than you are. At the same
15 time, no juror should surrender his or her honest conviction as to the weight or the effect of the
16 evidence to his fellow or her fellow jurors or for the purpose of returning a verdict; it is your
17 right to fail to agree if your honest conviction requires it.]

18 I would like to suggest at this time that you return to the jury room and reflect upon what
19 I've said and resume your deliberations for such time as you, in your judgment, feel to be
20 reasonable.

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Response to Jury Note #2

As I instructed you yesterday, the second element that the Government must establish beyond a reasonable doubt before you can find the defendant guilty of wire fraud, the offense charged in Count One, is that the defendant devised or participated in the fraudulent scheme knowingly, willfully, and with specific intent to defraud, as I defined those terms for you yesterday.

Because an essential element of wire fraud is the intent to defraud, it follows that good faith on the part of a defendant is a complete defense to the charge of wire fraud. Thus, if the defendant held an honest belief that he was entitled to take the money or property from the victim, even if that belief was mistaken, then you must find him not guilty even if others were injured by the defendant's conduct.

The defendant has no burden to establish good faith. The burden is on the Government to prove fraudulent intent and the consequent lack of good faith beyond a reasonable doubt.

If that does not answer your question adequately, you can, of course, send us another request.

Response to Jury Note #3

1 We have received your note, which reads as follows: _____

2 At the beginning of this case, you each took an oath to “well and truly try this issue . . . and a
3 true verdict give according to the law and the evidence.”

4 Pursuant to that oath, each of you has a duty to deliberate. That entails a duty to consult with
5 one another, to consider each other’s views with an open mind, and to discuss the evidence with the
6 objective of reaching a just verdict if you can do so.

7 Under your oath as jurors, you are not to be swayed by sympathy or emotion. You should be
8 guided solely by the evidence presented during the trial and the law as I gave it to you, without regard
9 to the consequences of your decision. You have been chosen to try the issues of fact and reach a
10 verdict on the basis of the evidence or lack of evidence. If you let sympathy or emotion interfere with
11 your clear thinking, there is a risk that you will not arrive at a just verdict. You must make a fair and
12 impartial decision so that you will arrive at the just verdict.

13 Your verdict must be based on the evidence introduced at trial --- or the lack of evidence. But I
14 remind you: The defendant has no burden to present any evidence. As I’ve told you many times, the
15 burden of proof lies solely with the Government.

16 As you deliberate, you should examine the questions put to you with candor and with a proper
17 regard and deference to the opinions of each other. If, after listening to your fellow jurors and if, after
18 stating your own view, you become convinced that your view is wrong, do not hesitate because of
19 stubbornness or pride to change your view. On the other hand, if you have honest convictions and
20 beliefs based on the evidence presented at trial, you should not surrender those convictions and beliefs
21 solely because of the opinions of your fellow jurors or because you are outnumbered.

22 I remind you that your verdict must be unanimous. Further, you are reminded that, if at any
23 time you are not in agreement, you are not to reveal the positions of the jurors, including the split of
24 the vote, to anyone, including me, at any time during your deliberations.

25 With that, I will ask you to return to the jury room to continue your deliberations. I am going
26 to give you copies of the instruction that I just read to you as well as the instructions I read to you
27 yesterday in response to your first two notes. You should consider all of these instructions along with
28 the all of my other instructions in reaching a verdict in this case.

29 If, at any point in your deliberations, anyone on the jury is refusing to deliberate in accordance
30 with my instructions, you are free to send us another note. And, of course, if you have any additional
31 questions or concerns, you can always send us another note.
32

Court Exhibit 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

MICHAEL AVENATTI,

Defendant.

19 Cr. 374 (JMF)

VERDICT FORM

All Answers Must Be Unanimous

Count One – Wire Fraud

Guilty Not Guilty

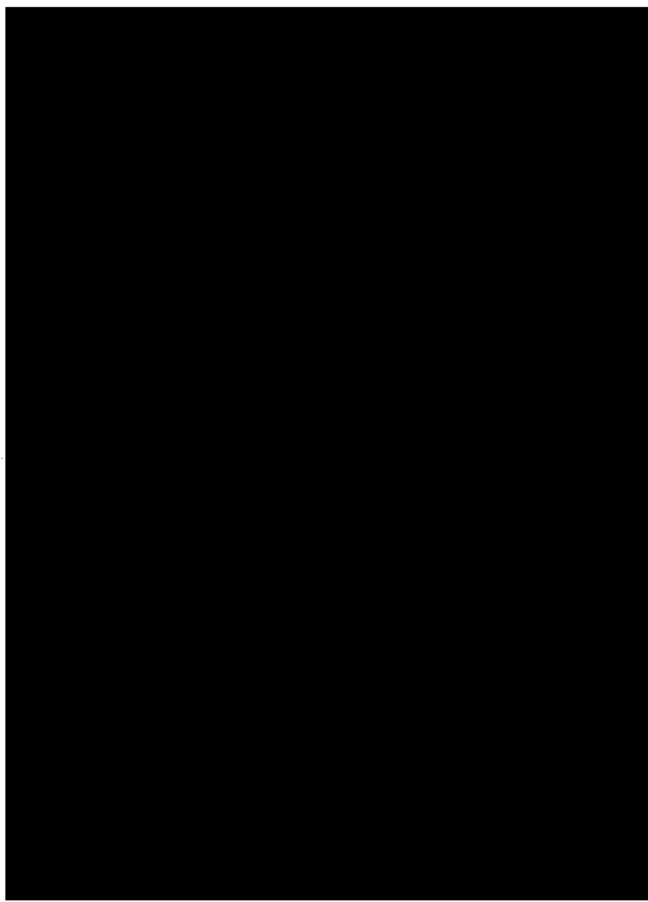
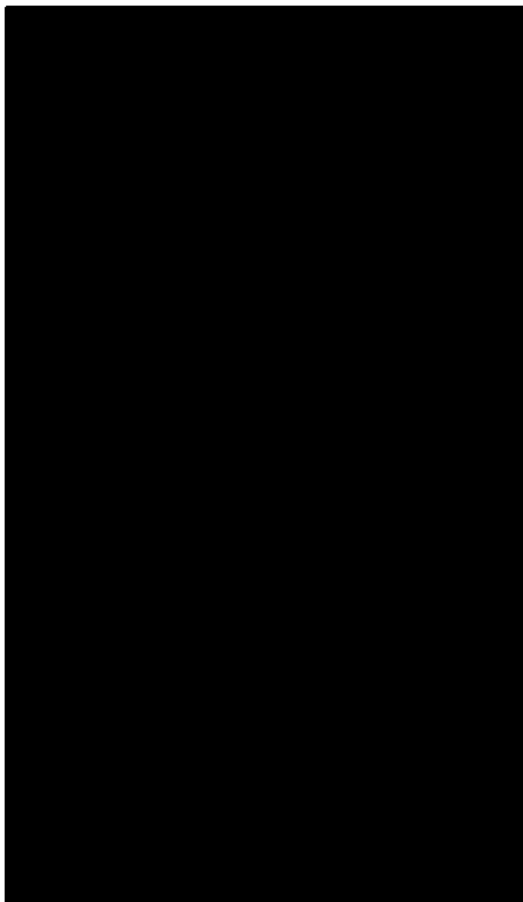
**REMINDER: If you find the defendant Not Guilty on Count One,
you must find him Not Guilty on Count Two as well.**

Count Two – Aggravated Identity Theft

Guilty Not Guilty

Please Turn to the Next Page

After completing the Verdict Form, please sign your names in the spaces provided below, fill in the date and time, and inform the Court Security Officer that you have reached a verdict.



Date and Time: 2/4/22, 2:32 PM

Once you have signed the Verdict Form, please give a note — NOT the Verdict Form itself — to the Court Security Officer stating that you have reached a verdict.