

**MEMO ENDORSED**  
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April 17, 2023

The Honorable Lewis A. Kaplan  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: *E. Jean Carroll v. Donald J. Trump*, 22-cv-10016 (LAK)

USDC SDNY  
DOCUMENT  
ELECTRONIC  
DOC #:  
DATE FILED: 4-18-2023

Dear Judge Kaplan,

As counsel for Defendant Donald J. Trump, we write to inquire as to the Court's plan for conducting jury selection in this case. On March 29, 2023, counsel were generally advised by the Deputy Clerk that Your Honor planned to assemble approximately one hundred potential jurors in the Jury Assembly Room and then explain to them what this case is about. The Deputy Clerk then indicated that Your Honor would ask whether the jurors could be impartial, with a view that only about fifteen prospective jurors might be struck. The Deputy Clerk also indicated that Your Honor would not ask that many questions during the *voir dire* in the courtroom, and that the entire jury selection process would take only one to two hours.

It was unclear from this discussion whether counsel would be present during this jury selection process in the Jury Assembly Room, or would have any input into the Court's description of the case, or would have any input into the questions being asked, or would have their own opportunity to ask questions. Therefore, we seek clarification on these points. Also, given the parties involved in this case, the attendant publicity surrounding it, the sensitivity of the issues involved, as well as the possibility of political bias, we believe that a robust jury selection process — one in which counsel is involved at each step — is necessary in the interests of justice.

Rule 47 of the Federal Rules of Civil Procedure governs jury selection in civil cases. It is clear that counsel must be involved:

Rule 47. Selecting Jurors.

- (a) Examining Jurors. The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it *must* permit the parties or their attorneys to make any further inquiry it considers proper, or *must* itself ask any of their additional questions it considers proper. (emphasis added)

Memorandum Endorsement

Carroll v. Trump, 22-cv-10016 (LAK)

I take what I understand to be material inaccuracies in Mr. Tacopina's letter to be misunderstandings attributable to the fact that Mr. Tacopina was not present at the meeting attended by the Deputy Clerk, Mr. Mohan, and other counsel. The Court nevertheless provides the following information concerning the proceedings on Tuesday.

1. The entire jury selection process will take place in the Courtroom scheduled for trial in the presence of counsel for both sides. As it would be inconvenient to accommodate the entire panel in that room at one time, part of the panel will be held in a reserve room under appropriate court supervision and will see and hear all jury-related proceedings (save any sidebars) that occur in the Courtroom over closed circuit video. From time to time, it may be appropriate to bring prospective jurors from the reserve room to replace other prospective jurors who have been excused during proceedings in the Courtroom. The replacement prospective jurors will be *voir dire*d appropriately in the presence of all counsel once they are brought to the Courtroom and seated. This is identical in substance to the manner in which juries were selected in this Court during the COVID pandemic.

2. Counsel for both sides have been requested to submit proposed *voir dire* questions, and both have done so. The Court naturally is taking those requests into account in formulating its examination of prospective jurors. Moreover, at the completion of the examinations of the panel in general and of specific individual jurors, counsel will have a further opportunity to suggest questions.

SO ORDERED.

Dated: April 18, 2023



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Lewis A. Kaplan  
United States District Judge