

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

E. JEAN CARROLL,

Plaintiff,

v.

DONALD J. TRUMP,

Defendant.

No. 22 Civ. 10016 (LAK)

AMENDED 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 Amended Joint Pretrial Order herein.

Because Defendant has added objections to Plaintiff's Exhibits that he did not assert in the original Joint Pretrial Order that the Court so-ordered on February 16, 2023, and because the so-ordered Joint Pretrial Order provides that "[a]ny objections not set forth herein will be considered waived absent good cause shown," ECF 65 at 3, Plaintiff argues that all objections that Defendant asserts for the first time in this Amended Joint Pretrial Order (which Plaintiff has identified with **highlighted text** below) are waived.

As to this waiver of objections issue, Defendant argues that Defendant never stipulated to the admissibility or authenticity of any of Plaintiff's exhibits listed on the initial Joint Pretrial Order (ECF No. 65). Therefore, the Federal Rules of Evidence still apply, and Plaintiff must still lay the proper foundation and establish the authenticity of every Plaintiff Exhibit that Defendant has not stipulated herein to being admissible. Furthermore, good cause is shown in that it was

clear from the initial Joint Pretrial Order (ECF No. 65) that parties were still meeting and conferring concerning trial exhibits as the objections section of the initial Joint Pretrial Order (ECF No. 65) was incomplete, and thus, necessarily had to be supplemented by way of an Amended Pretrial Order.

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 and pinned her in place with his shoulder. He pulled down Carroll's tights, pushed his fingers around Carroll's genitals, and forced his penis inside 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.

Then, on October 12, 2022, Trump repeated many of these defamatory claims in a statement posted on Truth Social and distributed to the press. Trump denied that he raped Carroll and falsely stated that he had no idea who Carroll was. He also implied that Carroll had lied about the rape to increase book sales. And he insulted her physical appearance, suggesting that he could not have attacked her because “[t]his woman is not my type”—in other words, Carroll was too unattractive for him to have raped her. Trump made his October 12 statement knowing full well that it was false.

Trump’s sexual assault has caused Carroll to suffer lasting psychological harms, loss of dignity and intimate relationships, and invasion of her privacy. Additionally, Trump’s October 12 defamatory statement caused Carroll to suffer reputational, emotional, and professional harm. She seeks compensatory and punitive damages to remedy the harms that Trump has caused and demands that Trump retract his defamatory statement.

B. Defendant’s Proposed Statement of the Case

Plaintiff’s contentions arise out of an alleged sexual assault 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.” There were no eyewitnesses to this alleged incident nor is there any photographic or video evidence of this purported incident at Bergdorf Goodman, which is not surprising since this alleged incident never occurred.

Defendant submits that Plaintiff’s story defies common sense. By way of one example, Plaintiff claims that there were no customers or staff anywhere to be seen immediately before, during and after the alleged incident. Such a notion is implausible given that Bergdorf Goodman is a popular department store located in Manhattan on Fifth Avenue.

Importantly, Plaintiff brought this false allegation for personal reasons in order to sell a book and for political reasons in an attempt to harm the reputation and presidency of Defendant. Plaintiff turned her allegations against Defendant into a lifestyle and sought to monetize her allegations as much as possible, including going on an extensive media tour. Plaintiff was also determined to damage Defendant through her allegations because of her significant political bias against him.

Additionally, she colluded with two of her friends, Lisa Birnbach and Carol Martin, who also despise Defendant, to create a false story that Plaintiff reported this alleged incident to them shortly after it allegedly occurred. However, neither Ms. Birnbach nor Ms. Martin can remember when Plaintiff supposedly told them about this purported assault, and incredibly, they, along with Plaintiff, all state that they never spoke to anyone about this purported incident for decades until Plaintiff decided to publish a book about it.

In sum, Defendant wholly denies the veracity of Plaintiff's claims and maintains that his denial of her allegations was truthful.

As to Plaintiff's assertion that she suffered emotional injuries from this alleged incident, that assertion is baseless because she could not have been harmed by something that never occurred. To that end, Plaintiff has also admitted that she was not emotionally harmed by the alleged incident.

On October 12, 2022, Defendant justifiably responded to Plaintiff's false accusations of the purported sexual assault by denying them again in a statement posted on Truth Social. Defendant truthfully stated that her allegations of sexual assault are false and that she made them for political reasons and to sell her book.

Notwithstanding Plaintiff's allegations to the contrary, Ms. Carroll did not sustain any reputational or economic harm as a result of the October 12, 2022 statement made by the Defendant on Truth Social. Furthermore, Plaintiff is not entitled to recover for any such alleged harm due to the fact that Defendant's October 12, 2022 statement was a truthful denial of that false accusation. Additionally, Plaintiff's reputation and financial status have only improved since she began this very public dispute with Defendant.

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

II. JURY/NON-JURY

Carroll and Trump both request that this action be tried by jury. Carroll estimates that the trial will take between 5 and 7 days. Trump estimates that the trial will take between 10 and 12 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)	Hearsay	Yes	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-2	Trump's June 22, 2019 statement (transcript of remarks before Marine One departure) (MP-001795) (Defendant Dep. Ex. 21)	Authenticity; foundation; hearsay	No	No
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)	Authenticity; foundation; hearsay	No	No
PX-4	Trump's October 12, 2022 statement (Truth Social post) (Defendant Dep. Ex. 28)	None	Yes	Yes
PX-5	E. Jean Carroll's book: <i>What Do We Need Men For? A Modest Proposal</i> (2019) (Defendant Dep. Ex. 19)	Foundation; irrelevant; hearsay	Yes	No
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)	Authenticity; foundation; hearsay	No	No
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_024378 (article))	Authenticity; foundation; hearsay	No	No
PX-8	<i>New York Magazine</i> article: Lisa Birnbach, <i>Mi Casa Es Su Casa</i> (Feb. 12, 1996) (Defendant Dep. Ex. 1)	Authenticity; foundation; hearsay	No	No
PX-9	<i>People</i> article: Natasha Stoyneff, <i>Happy Anniversary</i> (Jan. 16, 2006)	Authenticity; foundation; hearsay	No	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-10	Publishing contract between E. Jean Carroll and St. Martin's Press, dated June 8, 2018 (CARROLL_015939)	Authenticity; foundation; hearsay	No	No
PX-11	Contract between E. Jean Carroll and Hearst Magazine Media, dated January 28, 2019 (CARROLL_025665)	Authenticity; foundation; hearsay	No	No
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)	Authenticity; foundation	No	No
PX-13	Photo of E. Jean Carroll from Miss Indiana photo shoot (CARROLL_030203)	Authenticity; foundation; irrelevant	No	No
PX-14	Photo of E. Jean Carroll in 1998 (CARROLL_030201)	Authenticity; foundation; irrelevant	No	No
PX-15	Photo of E. Jean Carroll eating at a restaurant, for the "Ask E. Jean" column (CARROLL_030242)	Authenticity; foundation; irrelevant	No	No
PX-16	Photo of E. Jean Carroll looking out a window, for the "Ask E. Jean" column (CARROLL_030229)	Authenticity; foundation; irrelevant	No	No
PX-17	Photo of Natasha Stoynoff with Donald Trump and others at Mar-a-Lago in December 2005	Irrelevant; foundation; unduly prejudicial; authenticity	No	No
PX-18	Photo of Jessica Leeds in 1978	Irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-19	Television graphic for <i>Ask E. Jean</i> Show (1995)	Irrelevant; authenticity; foundation	No	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-20	Omitted	N/A	N/A	N/A
PX-21	Omitted	N/A	N/A	N/A
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)	Irrelevant; hearsay	Yes	No
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)	Irrelevant; hearsay	Yes	No
PX-24	Bergdorf Goodman Fifth Avenue Sixth Floor Plan, dated April 12, 1996, and certified by the New York Department of Buildings (CARROLL_030840)	Irrelevant; hearsay	Yes	No
PX-25	Access Hollywood video recording of Donald J. Trump speaking to Billy Bush in September 2005 (Defendant Dep. Ex. 35)	Irrelevant; foundation; authenticity; hearsay; unduly prejudicial	No	No
PX-26	September 26, 2016 Presidential debate video (Stoynoff Dep. Ex. 3; Leeds Dep. Ex. 1)	Irrelevant; foundation; authenticity; hearsay; unduly prejudicial	No	No
PX-27	October 13, 2016 West Palm Beach campaign rally video (14:28-15:32) (Defendant Dep. Ex. 40)	Irrelevant; authenticity; foundation; hearsay; unduly prejudicial	No	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-28	October 13, 2016 West Palm Beach campaign rally video (17:32-17:57)	Irrelevant; authenticity; hearsay; foundation; unduly prejudicial	No	No
PX-29	October 13, 2016 West Palm Beach campaign rally video (17:58-19:23) (Defendant Dep. Ex. 36)	Irrelevant; authenticity; foundation; hearsay; unduly prejudicial	No	No
PX-30	October 14, 2016 Greensboro, NC campaign rally video (17:10-18:30)	Irrelevant; authenticity; foundation; hearsay; unduly prejudicial	No	No
PX-31	October 14, 2016 Greensboro, NC campaign rally video (24:34-25:06) (Defendant Dep. Ex. 38)	Irrelevant; authenticity; foundation; hearsay; unduly prejudicial	No	No
PX-32	October 21, 2016 Gettysburg, PA campaign rally video (9:44-10:06)	Irrelevant; authenticity; hearsay; foundation; unduly prejudicial	No	No
PX-33	Omitted	N/A	N/A	N/A
PX-34	Omitted	N/A	N/A	N/A
PX-35	Omitted	N/A	N/A	N/A
PX-36	Omitted	N/A	N/A	N/A
PX-37	Deposition designations of the video recording of the deposition of Donald J. Trump dated October 19, 2022 (as set forth in ECF 129)	Objections set forth in ECF 129	Yes	Objections set forth in ECF 129

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-38	Omitted	N/A	N/A	N/A
PX-39	Omitted	N/A	N/A	N/A
PX-40	Omitted	N/A	N/A	N/A
PX-41	Omitted	N/A	N/A	N/A
PX-42	Deposition designations of the transcript of the deposition of Donald J. Trump dated October 19, 2022 (as set forth in ECF 129)	Objections set forth in ECF 129	Yes	Objections set forth in ECF 129
PX-43	Prof. Ashlee Humphreys demonstrative exhibit	Not produced yet	No	No
PX-44	Omitted	N/A	N/A	N/A
PX-45	Tweet by @mherndon23 (Oct. 13, 2022)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-46	Tweet @SkyNews by @RKeane4711 (Oct. 20, 2022)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-47	Tweet @KinojaMaswali and @NYDailyNews by @rogelio06290905 (Oct. 19, 2022)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-48	Tweet @NYDailyNews by @Ezekill58 (Oct. 19, 2022)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-49	Email to ejeancarroll@gmail.com from frog6toad@gmail.com (Jan. 15, 2023) (CARROLL_031515)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-50	Email to e.jean@askejean.com from jazzyjasperkitty@gmail.com (Oct. 13, 2022) (CARROLL_031518)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-51	Tweet @ejeancarroll by @patriot_savvy (Jan. 15, 2023) (CARROLL_031542)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-52	Tweet @ejeancarroll by @ToddHeadleeAZ (Nov. 3, 2022) (CARROLL_031619)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-53	Tweet @ejeancarroll by @scottagain2 (Nov. 3, 2022) (CARROLL_031622)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation	No	No
PX-54	Tweet @ejeancarroll by @SirWinston85 (Nov. 3, 2022) (CARROLL_031625)	Hearsay; irrelevant; unduly prejudicial; authenticity; foundation;	No	No
PX-55	Roger Ailes and Donald Trump interview video (Nov. 1995)	Irrelevant; authenticity; foundation;	No	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-56	Donald J. Trump's book: <i>Trump: Think Like a Billionaire: Everything You Need to Know About Success, Real Estate, and Life</i> (2005)	Irrelevant	No	No

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	Omitted	N/A	N/A	N/A
DX-B1	Omitted	N/A	N/A	N/A
DX-B2	Omitted	N/A	N/A	N/A
DX-B3	Omitted	N/A	N/A	N/A
DX-C	Omitted	N/A	N/A	N/A
DX-D	Omitted	N/A	N/A	N/A
DX-E	Omitted	N/A	N/A	N/A
DX-F	Omitted	N/A	N/A	N/A
DX-G	Omitted	N/A	N/A	N/A
DX-H	Omitted	N/A	N/A	N/A
DX-I	Omitted	N/A	N/A	N/A
DX-J	Omitted	N/A	N/A	N/A
DX-K	Omitted	N/A	N/A	N/A
DX-L	Omitted	N/A	N/A	N/A
DX-M	Omitted	N/A	N/A	N/A
DX-N	Omitted	N/A	N/A	N/A
DX-O	Deposition counter-designations of the video recording of the deposition of Donald J. Trump dated October 19, 2022 (as set forth in ECF 129)	Objections set forth in ECF 129	Yes	Objections set forth in ECF 129

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-P	Deposition counter-designations of the transcript of the deposition of Donald J. Trump dated October 19, 2022 (as set forth in ECF 129)	Objections set forth in ECF 129	Yes	Objections set forth in ECF 129

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
- Roberta Myers
- Natasha Stoyloff
- Jessica Leeds
- Cheryl Beall
- Robert Salerno
- Prof. Ashlee Humphreys
- Dr. Leslie Lebowitz

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.

Defendant may call at trial the following:

- Donald J. Trump
- Edgar P. Nace, M.D.

VIII. RELIEF SOUGHT

Carroll seeks compensatory and punitive damages for the harms caused by Trump's sexual assault. Carroll also seeks an order that Trump retract the defamatory statement and seeks compensatory and punitive damages for the harms caused by Trump's defamatory statement. Finally, Carroll 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: April 20, 2023

Respectfully submitted,

/s/ Joseph Tacopina

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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