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SUPREME COURT
CRIMINAL TERM
NEW YORK COUNTY

December 9, 2024

Hon. Juan M. Merchan
New York State Supreme Court, Criminal Term, Part 59
100 Centre Street
New York, New York 10013

RE: People v. Trump, Ind. No. 71543/23

Dear Justice Merchan:

The parties have been unable to agree on proposed redactions to our December 5 letter regarding defense counsel's allegations of juror misconduct. We are therefore appending our proposed redactions concerning that document in the event that the Court determines that public filing is appropriate.

Counsel's original proposed redactions to their Dec. 3 letter redacted the specifics of the allegations purportedly made by [REDACTED], and we agree that those redactions are appropriate. However, those redactions failed to note that their source refused to endorse counsel's summary and noted that such summary "contains inaccuracies." It has proven exceptionally difficult to arrive at a set of redactions that safeguards the nature of [REDACTED] ostensible allegations while also acknowledging the critical fact that [REDACTED] has disclaimed at least some of the allegations counsel has set forth.

Of paramount importance is the nature of the relief counsel seeks. Defendant does not want to participate in a hearing designed to evaluate these claims. He wants instead to use these unsworn, untested claims by his attorneys to undermine public confidence in the verdict. In other words, defendant is asking the Court to allow him to adjudicate his grievances *only* in the public forum wherein the only available relief is nonlegal. To the extent that defendant has anchored his request to one of the *Clayton* factors, the Court may determine what credence, if any, to lend to counsel's unsworn allegations in its decision on that motion regardless of whether the respective submissions are publicly filed.

The difficulty in selecting appropriate redactions further underscores the need to retain these filings under seal unless and until defense counsel makes the requisite showing to entitle defendant to—and actually requests—a factual hearing. Notwithstanding counsel's hyperbolic references to the Star Chamber and reckless accusations of lawless behavior on

the part of DANY, the People are not seeking to hide anything. Rather, we seek to protect the seated jurors and alternates from unwarranted harassment and to safeguard the integrity of the very proceedings whose legitimacy defendant seeks to undermine with counsel's unsworn and partially contradicted allegations.

The Court has the authority to direct that defense counsel's December 3 letter and the People's December 5 response, along with today's communications on this topic, be maintained under seal pursuant to the Court's inherent authority to seal court records as the interests of justice may dictate—including where, as here, public filing could impair the integrity of any potential future proceeding or jeopardize juror safety. *See generally Waller v. Georgia*, 467 U.S. 39, 45 (1984); *Matter of Hynes v. Karassik*, 47 N.Y.2d 659, 664 (1979); *People v. Hodges*, 172 Misc. 2d 112, 117 (Sup. Ct. Kings Cnty. 1997).

Of course, the People will immediately comply with any directive of the Court regarding public filing, including by effectuating any redactions the Court deems appropriate.

Respectfully Submitted,

/s/ Joshua Steinglass

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