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ALVIN L. BRAGG, JR.
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May 23, 2024

Hon. Curtis Farber
New York County Supreme Court
100 Centre Street
New York, NY 10013

Dear Judge Farber:

I am writing to request that, on the next court date, the Court remind defense counsel of their ethical obligations regarding out-of-court statements during a pending case and direct defense counsel to refrain from making public statements about witnesses that could materially prejudice the case.

This request stems from comments made by Mr. Aidala to the media earlier this month about Miriam Hailey, a witness who testified against the defendant in his 2020 trial. On April 26, 2024, following the reversal of defendant's conviction by the Court of Appeals, Ms. Haley stated in a press conference with her attorney that she was considering whether to testify again at a retrial. Less than a week later, immediately following the May 1, 2024, court appearance in this case, Mr. Aidala gave a press conference in front of the courthouse¹ in which he made the following statements regarding Ms. Haley:

- 1) "Moments after Mr. Weinstein was sentenced a lawsuit was filed and she got a significant check from an insurance company not from Mr. Weinstein but from an insurance company. So, the first question, if she dares to come and show her face here, will be tell this jury how you lied to the last jury when you said you had no financial interest in the outcome of this case when moments after the sentencing you filed a lawsuit and collected a tremendous sum of money"²; and

¹ See [LIVE: Harvey Weinstein is set to appear in court after rape conviction thrown out](https://www.youtube.com/watch?v=...) ([youtube.com](https://www.youtube.com))

² This statement is false. Ms. Haley did file a civil lawsuit against the defendant but not until December 30, 2020, nine months after her testimony and eight months after the guilty verdict. The suit, which sought compensation for the pain, suffering, and economic injuries caused by defendant's sexual assault, was voluntarily dismissed and discontinued with prejudice less than a year later. Haley

- 2) "The Mimi Haley count, it's very serious, but as they said, you know the DA's office isn't going to look at her and see whether she perjured herself,³ because we believe that she did. We're going to look into that and investigate it and see if that is something that could be brought up. Her cross-examination will be prepared for months, literally. And we are already starting. I mean John Esposito, who is a former Manhattan assistant district attorney, he is already reading the transcripts. We are going to dice it, slice it and make sure that that jury hears everything from the day they met, until the day she cashed the check of the lawsuit. The check from the lawsuit that she swore under oath to these 12 jurors that she didn't want, and she wasn't going to get. So, she lied. She lied to those jurors."

By making these public statements attacking the credibility and character of an expected witness, Mr. Aidala violated Rule 3.6 of the New York Rules of Professional Conduct, which provides in pertinent part:

- (a) A lawyer who is participating in or has participated in a criminal or civil matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
- (b) A statement ordinarily is likely to prejudice materially an adjudicative proceeding when it refers to . . . a criminal matter or any other proceeding that could result in incarceration, and the statement relates to:
 - (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness or the expected testimony of a party or witness...

22 NYCRR §1200.0, Rule 3.6. Specifically, Mr. Aidala's public statements knowingly disregarded his professional and ethical obligations. The obvious intent of his statements was to intimidate Ms. Haley and chill her cooperation with the retrial of this case. Mr. Aidala expressly discussed his plan to aggressively cross-examine Ms. Haley and paint her as a liar, stating that if Ms. Haley "dares to come and show her face here," his first question would be "tell this jury how you lied to the last jury." *See, supra*. He then went on to say, "[h]er cross-examination will be prepared for months, literally"

did not receive any payment with respect to her lawsuit and, instead, participated in a civil bankruptcy settlement from a class action lawsuit for women who experienced sexual misconduct and workplace harassment by the defendant.

³ Ms. Haley did not perjure herself. When asked if she intended to sue the defendant, she stated, "there is always the possibility, but I have no plans at this time."

and that he would "dice" and "slice" her prior testimony. *Id* These statements went beyond mere posturing—they were designed to let Ms. Haley know that if she testifies, Mr. Aidala will make it as unpleasant for her as possible.

Unfortunately, none of this conduct is new. Mr. Aidala was part of the defense team during the defendant's first trial, during which the presiding judge repeatedly had to remind defense counsel to refrain from improper public statements.⁴ The People hope to avoid similar issues during the retrial and, accordingly, we ask the Court to remind defense counsel of their ethical obligations with respect to out-of-court statements during the pendency of this case. In particular, we request that the Court instruct the parties not to make public statements discussing or disparaging potential witnesses in the future.

Respectfully submitted,

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Cc: Arthur Aidala, Esq.

⁴ On January 6, 2020, prior to the start of jury selection, the judge stated "leave the witnesses alone, don't talk about them in any capacity, okay; just excise the witnesses from your communications going forward. It will be hard enough to get a fair and impartial jury." Later, the defense violated the Court's order not to publicly discuss the case during the trial by conducting an interview with reporters from the New York Times and publishing an op-ed in Newsweek that directly addressed deliberating jurors. See, Twohey, Megan, *A Question That Almost Went Unasked* at <https://www.nytimes.com/2020/02/14/podcasts/daily-newsletter-weiostcin-trial-coonavirus.html> (Feb. 14, 2020), and Rotunno, Donna, *Jurors in My Client Harvey Weinstein's Case Must Look Past The Headlines*, at <https://www.oesweek.com/jurors-my-client-barvey-weinsteins-case-must-look-past-headlines-opinioo-1487564> (Feb. 16, 2020).