Twitter Thread by Adam Klasfeld

Adam Klasfeld
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E. Jean Carroll goes to court against outgoing Pres. Trump this morning, in a lawsuit accusing the lame duck of defaming her by denying that he raped her.

Trump wants to pause proceedings to appeal the ruling kicking DOJ out, but for now, it's still on.

Today is an initial telephone conference following Judge Kaplan's ruling that the DOJ can't represent Trump and ordering his personal lawyer Marc Kasowitz back on the docket.

Kasowitz's latest filing from last night: https://t.co/tsTqJanOVe

Dear Judge Kaplan:

We represent President Donald J. Trump in the above-referenced action. I submit this letter motion to respectfully request that this Court immediately stay all proceedings. As shown below, the Court has been divested of jurisdiction during the appeals to the United States Court of Appeals for the Second Circuit from this Court's October 27, 2020 Opinion and Order (the "Order") (ECF No. 32) denying the United States' motion, pursuant to the Westfall Act, 28 U.S.C. § 2679(d)(2), to substitute as the defendant in place of President Trump.

I'll be covering the proceedings live... in the remote, virtual sense of our era.

.@EJeanCarroll's lawyer @KaplanRobbie is now on the line.

The conference is slated to begin in roughly 5 minutes.

Trump's attorney Christine Montenegro from the firm Kasowitz, Benson, Torres is also on the line.

U.S. District Judge Lewis Kaplan is now on the line.

"Let me hear from the parties about where we are."

Carroll's attorney Joshua Adam Matz is up first:

Where we are is a little "confounded" by the fact that Trump's counsel waited until after 7 p.m. last night to request an adjournment.

Matz:

Trump "attempted to abuse the Justice Department."

Trump seems "desperate" to avoid the justice system, which smacks of "desperation" and "fear."

Matz gives a history of the case:

Trump's attorneys used "every stall tactic in the book," avoiding service, denying jurisdiction, seeking stays, and refusing to provide documents.

Matz:

Trump's lawyers expressed their intent to fight the case in state court, while jockeying via the DOJ to move the case to federal court.

"Of course, even then it seems like the gamesmanship continued," he notes.

DOJ tried to reschedule and refused to argue by phone.

Matz refers to this court order booting DOJ from the docket. https://t.co/ABMs6vJm88

Matz 'inexplicably delayed" filing their motion to stay proceedings until this time:

"To call that gamesmanship would be an act of charity," Matz says.

The following transaction was entered by Kasowitz, Marc on 12/10/2020 at 7:57 PM EST and filed on 12/10/2020

Case Name: Carroll v. Trump, et al.
Case Number: 1:20-cv-07311-LAK
Filer: Donald J. Trump
Document Number: 47

Docket Text:
LETTER MOTION to Stay addressed to Judge Lewis A. Kaplan from Marc E. Kasowitz dated December 10, 2020. Document filed by Donald J. Trump..(Kasowitz, Marc)

Matz wants a chance to respond to the stay request, which he says is "not warranted."

Trump "knew or darn well should have known" that these arguments were available to them earlier, he adds.

Judge Kaplan asks Trump's counsel to respond.

Paul J. Burgo from Kasowitz's firm is up.

Burgo claims SCOTUS precedent shows they are entitled to immediate appeal and stay of proceedings to argue immunity from liability.

Judge Kaplan is skeptical: "Immunity from liability and immunity from discovery are two different things, aren't they?"

Burgo says it's not so much from liability but from suit.

Judge Kaplan turns to counsel for the DOJ.

—But they're not on the call.... because the judge ruled they are not a party to the proceedings.

"Interesting," Judge Kaplan says, turning it back to Matz.

Matz: "It's sort of peculiar, your honor... Mr. Trump and his private counsel did not involve themselves in the Justice Dept.'s" motion to substitute.

There are at least potentially "waiver issues," Matz says.

Trump's attorney Paul Burgo insists the right to appeal isn't waived.

It's "sacred," he says.

DOJ isn't here because they're respecting Judge Kaplan's order, Burgo says.

Carroll's opposition papers are due on Dec. 17.

Trump's attorneys will reply after, and Burgo says he will proceed in Second Circuit "expeditiously."

Judge Kaplan: "Define expeditiously."

Burgo demurs on setting a date, and Judge Kaplan tells him it's in his best interest to clarify that soon.

Hearing adjourned.