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New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
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Kay-Ann Porter Campbell
Inspector General, New York State Unified Court System
Office of Court Administration
25 Beaver Street
New York, NY 10004

Members of the Commission, and Madam Inspector General,

I am writing to alert you to potential misconduct by Justices and employees of the Supreme Court, Criminal Term, New York County.

The potential misconduct pertains to the repeated assignment of Acting Justice Juan Merchan, a Democrat Party donor, to criminal cases related to President Donald J. Trump and his allies. Acting Justice Merchan currently presides over the criminal case against President Trump brought by Manhattan District Attorney Alvin Bragg. Acting Justice Merchan also presided over the criminal trial against the Trump Organization and will be presiding over the criminal trial of Steve Bannon, a senior advisor in President Trump's White House and a prominent advocate for President Trump.¹

The website for the Supreme Court, Criminal Term, New York County does not provide a comprehensive list of every justice and acting justice sitting in the courthouse, but based on the courtroom directory there are at least 24 sitting justices on the court.² Acting Justice Merchan is not even listed among them, one assumes, because of his status as an acting justice.

Section 200.11(c) of the Uniform Rules for New York State Trial Courts requires that criminal actions be assigned to a judge "pursuant to a method of random selection authorized by the Chief Administrator." If justices were indeed being randomly assigned in the Criminal Term, the probability of two specific criminal cases being assigned to the

¹ Graham Kates, *Steve Bannon facing same judge who presided over Trump Organization trial*, CBS News (December 16, 2022), available at <https://www.cbsnews.com/news/steve-bannon-trump-organization-trial-judge-juan-merchan/> (last visited 5/28/2024).

² Courtroom Directory, Supreme Court Criminal Term, New York County, available at <https://ww2.nycourts.gov/courts/1jd/criminal/courtrooms.shtml> (last visited 5/28/2024)

same justice is quite low, and the probability of three specific criminal cases being assigned to the same justice is infinitesimally small. And yet, we see Acting Justice Merchan on all three cases.

This is the same Acting Justice Merchan who, in violation of New York State Code of Judicial Conduct 100.5(h), donated to President Biden's 2020 campaign, along with the Progressive Turnout Project and its "Stop Republicans" subsidiary.³ It's also the same Acting Justice whose daughter is a political consultant working for prominent Democrats, whose firm stands to profit greatly if Donald Trump is convicted.⁴

One cannot help but suspect that the "random selection" at work in the assignment of Acting Justice Merchan, a Democrat Party donor, to these cases involving prominent Republicans, is in fact not random at all. The simple answer to why Acting Justice Merchan has been assigned to these cases would seem to be that whoever made the assignment intentionally selected Acting Justice Merchan to handle them to increase the chance that Donald Trump, the Trump Organization, and Steven Bannon would ultimately be convicted.

I request that both the Commission and the Inspector General investigate this anomaly to determine whether the required random selection process was in fact followed in the assignment of these criminal cases to Acting Justice Merchan. If Acting Justice Merchan or any other Justices of the Court are found to have violated these rules, I would hope that the Commission would subject them to the required discipline. And if any non-judicial employees of the Court are involved in such a scheme, I would hope that the Inspector General subject them to the appropriate sanction.

Thank you for your attention to this matter.

Sincerely,

Elise Stefanik

³ Jeremy Herb, Kara Scannell and Lauren del Valle, *\$35 political contribution raises fresh scrutiny of Judge Merchan*, April 6, 2023, available at <https://www.cnn.com/2023/04/06/politics/judge-merchan-trump-biden-contribution/index.html> (last visited 5/28/2024).

⁴ Jon Levine and Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised \$93M off the case*, New York Post (March 30, 2024), available at <https://nypost.com/2024/03/30/us-news/dem-clients-of-daughter-of-judge-in-trump-trial-raised-90m-off-case/> (last visited 5/28/2024)