

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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June 8, 2021

The Honorable Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland,

Yesterday, the Department of Justice announced that it would continue the previous Administration's push to represent former President Trump, at taxpayer expense, in a defamation lawsuit brought by E. Jean Carroll. That decision seems profoundly misguided. We write to urge you to reconsider.

Although DOJ maintains that its position has nothing to do with the merits of Ms. Carroll's case, the facts surrounding the lawsuit matter greatly in understanding the deeply problematic implications of the Department's actions. Ms. Carroll alleged in an article in June 2019 that Mr. Trump sexually assaulted her inside a dressing room at the Bergdorf Goodman department store in New York in the 1990s. Mr. Trump responded by denying the assault, accusing Ms. Carroll of lying about the incident, and stating that he could not have engaged in any sexual conduct with her because she was not his "type." Ms. Carroll filed a defamation lawsuit against Mr. Trump based on these statements. She has been waiting for more than a year and a half for the opportunity to make her case on the merits.

As a policy matter, we are concerned that DOJ has taken the position that federal officials act within the scope of their employment—and, therefore, enjoy immunity from civil liability—whenever they defame someone, so long as there is *some* connection between the statement and their official responsibilities. Are we to understand that federal employees are free to engage in private tortious conduct for personal gain, so long as they maintain federal employment and can assert some pretextual benefit to the public for their actions? President Trump's disgusting comments about Ms. Carroll had *nothing* to do with his official responsibilities as President, and the whole world knows it. Survivors of sexual assault, among other victims, deserve better.

Although we appreciate that the Department is constrained in the extent to which it can engage with us on matters related pending litigation, we request that you provide us with a

briefing to explain the Department's position in this case. We would, of course, not object if the Department changed its position before such a briefing can be arranged.

Thank you for your prompt attention to this matter.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary



Zoe Lofgren
Member of Congress



Sheila Jackson Lee
Member of Congress



Steve Cohen
Member of Congress



Henry C. "Hank" Johnson
Member of Congress



Theodore E. Deutch
Member of Congress



Karen Bass
Member of Congress



David N. Cicilline
Member of Congress



Eric Swalwell
Member of Congress



Ted W. Lieu
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Jamie Raskin
Member of Congress



Pramila Jayapal
Member of Congress



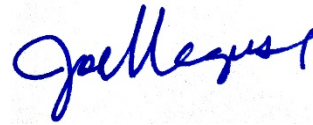
J. Luis Correa
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Mary Gay Scanlon
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Sylvia R. Garcia
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Joe Neguse
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Lucy McBath
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Greg Stanton
Member of Congress



Madeleine Dean
Member of Congress



Veronica Escobar
Member of Congress



Mondaire Jones
Member of Congress



Deborah Ross
Member of Congress



Cori Bush
Member of Congress

cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary