

# [***Trump poses unique challenges for jury in his hush money trial***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BSD-R621-DY7V-G00G-00000-00&context=1516831)

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**Body**

(CNN) &#8212; Three months ago, Donald Trump took the stand before a jury of nine in a New York courtroom without his typical bombast or ranting. The former president's complaints about the case and his sparring with the judge took place out of the jury's sight in the E. Jean Carroll defamation case, and he gave quick, scripted testimony lasting about three minutes.

The following day, however, Trump found a way to protest the trial with the jury's eyes on him, storming out during the closing argument delivered by Carroll's lawyer. "The record will reflect that Mr. Trump just rose and walked out of the courtroom," Judge Lewis Kaplan announced, in case any jurors had missed it.

That same afternoon, the jury returned an $83.3 million verdict against Trump for defaming Carroll - a massive figure that the columnist's attorneys attribute in part to Trump's protest.

"I think it hurt him terribly," Carroll attorney Roberta Kaplan told CNN's Anderson Cooper at the time of Trump's stunt. "I mean, our whole case was about the fact that Donald Trump is unable to follow the law, unable to follow the rules. He thinks they don't apply to him."

Beginning Monday, Trump will once again sit before a jury in New York, this time with even higher stakes. The jury of 12, along with six alternates, will be chosen from hundreds of New Yorkers after an exhaustive jury selection process that could stretch beyond the first week of the trial.

Choosing a jury will be no easy task when the defendant is a former president who has been at the center of the US political world for nearly 10 years now and a figure in the New York tabloids going back decades.

"The problem for both Donald Trump's attorneys and the prosecution's attorneys is they've got to figure out how to pick a jury for the case who are neutral - and good luck," said Steve Tuholski, a partner at Delphi Litigation Strategies who works on witness training and jury selection. "I can't imagine there are many people, especially in New York, that haven't made up their mind one way or the other about whether he's a snake or the Messiah. There doesn't seem to be a middle ground."

The hush money case is the first of four criminal trials Trump will potentially face - and potentially the only one before the 2024 election, even as Trump has campaigned in part on fusing his legal peril with his bid for the White House.

The presumptive Republican 2024 nominee will have plenty of incentive to make an impression on both the jury deciding his guilt or innocence and the broader public, whose opinion of the first criminal trial of a former president in US history could be a determining factor in whether Trump is reelected in November.

The vetting process

Court officials expect about 100 prospective jurors at a time will be brought into Judge Juan Merchan's downtown Manhattan courtroom to be vetted when jury selection begins Monday.

Merchan released this week the questionnaire that will be presented to potential jurors, which contains multiple questions that could signal political views to the lawyers on both sides.

There are questions about news consumption, affiliations with groups like the Proud Boys, QAnon and Antifa, and whether prospective jurors or anyone in their circle attended a Trump rally or an anti-Trump event. Potential jurors will be asked if they've ever read books or listened to podcasts from Michael Cohen, Trump's former lawyer and a key witness for the district attorney, or if they've read any of Trump's own books.

Those in the jury pool will also be asked if they have views on whether a former president can be charged in state court and how Trump is being treated in this case.

The questions will be used for the judge to strike jurors at the outset, if they don't believe they can render a verdict fairly. They will also be used by lawyers for both sides to strike jurors for any reason - a key part of the jury selection process.

Karen Friedman Agnifilo, a CNN legal analyst and former prosecutor in the Manhattan district attorney's office, said that Trump's attorneys will be looking for jurors who are sympathetic to Trump, of course - but also for anyone who might be an "independent thinker," willing to stand alone and let a jury hang. A unanimous verdict is required for conviction

"If you're Trump, you'd love an acquittal, but if you can't get an acquittal, you'd want them to hang, because then there's no conviction before the election," Agnifilo said. "You'd want somebody who's strong enough to be a holdout and somebody who is an independent thinker, who is not going to go along with the group."

The district attorney's office will be trying to find jurors who are productive, constructive people who have to make decisions regularly and are capable of judging credibility, Agniflio said, criteria that could cover both office managers as well as parents.

"Sometimes parents are always good, because parents have to listen to what their kid is saying, and sometimes have to make a credibility determination: 'Is he telling the truth? Is he not telling the truth?'" she said.

One source close to Trump said there is worry that some prospective jurors may have ulterior motives for wanting to be involved in the former president's trial.

Leaving ***politics*** aside

Trump's lawyers have already argued that he can't get a fair jury in New York County, which is Manhattan, because the jury pool there is biased against him. They filed a petition this week, which was denied, to delay the trial so the venue could be moved to a different county.

"In terms of pretrial publicity in this county, this case stands alone," Trump attorney Emil Bove said at Monday's emergency appeals hearing.

In the 2020 election, Manhattan voters chose President Joe Biden over Trump 86% to 12%. But just having political views about Trump, for or against, won't be a reason for potential jurors to be dismissed.

"People are going to have an opinion about Trump. That doesn't mean they can't be fair and impartial about the evidence and their burden," Agnifilo said.

The political makeup of Manhattan also doesn't mean Trump won't have any supporters among the jury pool. During the Carroll defamation trial - which was in a federal court, meaning the jury came from Manhattan as well as parts of nearby counties - two prospective jurors said they believed the 2020 election was stolen, and three said they contributed to Trump's campaign or a group supporting it.

All three of those jurors said that wouldn't affect their ability to be fair and impartial.

Trump took a keen interest in jury selection at the Carroll trial, turning behind him toward the jurors in the gallery behind him to watch as they responded to political questions. When Kaplan asked jurors a series of questions individually, Trump turned in his chair to watch each person speak.

In the defamation case, the jury was fully anonymous, meaning no identifying information about the jurors was made public or shared with the attorneys for either side.

In the hush money case, the jury will be known to the attorneys, but Merchan has written that identifying information about jurors will not be publicly released to protect privacy and avoid "exposing them to an atmosphere of intimidation."

Merchan warned Trump in his gag order that the former president can't make public comments or direct anyone else to make public comments about jurors involved in the proceedings.

A 'dynamic and unpredictable situation'

Once a jury is selected, they will be able to watch Trump throughout the duration of the trial, which is expected to last six weeks.

That means they can see the former president's reaction to the district attorney's allegations, to witness testimony from Stormy Daniels and Michael Cohen, and will potentially see him testify and face questions from the district attorney's office, should Trump choose to testify.

During the defamation case in January, Trump's conduct sitting at the defense table became a point of contention, when he made comments calling the case a "witch hunt" and a "con job" in the presence of the jury while Carroll was on the stand. When the jury was excused at a break, Carroll's lawyers told the judge what Trump was saying and said they believed it was audible to the jury.

That prompted Kaplan to admonish Trump and warn him he could be removed if he continued to be disruptive - prompting the former president to respond that he would "love it" if the judge booted him from the trial.

While the jury was present, Kaplan tried to keep a tight rein on Trump as well as all of the attorneys involved. It took longer for the judge to negotiate Trump's testimony outside the jury's view - "I want to know everything he is going to say," Kaplan told Trump's attorney - than the three minutes Trump spent on the stand.

Elie Honig, a CNN senior legal analyst and former federal and state prosecutor, warned that Merchan could face a "much more dynamic and unpredictable situation" with Trump in front of the jury for the upcoming hush money trial.

"Something that gets blurted out in front of a jury is permanent," he said. "As much as a judge will instruct a jury to disregard that, you can't un-ring the bell."

Of course, Trump's conduct can cut both ways for a jury. Tuholski, who works to help prepare witnesses for trial, said that a jury will often sour on witnesses who argue with the judge or don't answer the questions they're asked.

"In my world, witness demeanor is almost as important and sometimes more important than the actual witness testimony they offer," he said.

CNN's Kara Scannell, Kristen Holmes and Lauren Del Valle contributed reporting.

By Jeremy Herb, CNN

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