



SENT VIA ELECTRONIC MAIL

May 19, 2025

Pamela Bondi
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Edward Sullivan
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CC:
Gregory D. Cote
Acting General Counsel
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RE: Request for investigation into potential ethics violation regarding public disclosure of confidential legal advice

Dear Attorney General Bondi and Public Integrity Chief,

The American people expect Department of Justice (DOJ) attorneys to zealously represent the interests of and follow direction from their client agencies without the interference of politics. The U.S. Department of Transportation (USDOT), with representation by the DOJ, is currently pursuing a lawsuit challenging New York City's congestion pricing program. While the USDOT is advocating for an end to the congestion toll, a recent concerning incident involving attorneys assigned to the case through the U.S. Attorney's office for the Southern District of New York (SDNY) warrants investigation.

The *New York Times* recently reported that U.S. attorneys at SDNY claim to have mistakenly filed an internal memo, containing client communications on the public docket, questioning the Secretary and department's legal strategy and urging a new approach.¹ In the letter, dated April 11, the attorneys on the case - Christine Poscablo, David Farber, and Dominika Tarczyska – claim that Secretary Sean Duffy's strategy to end the tolling was

¹ <https://www.nytimes.com/2025/04/24/nyregion/nyc-congestion-pricing-duffy-lawyers.html>

“exceedingly likely” to fail.² Attorneys for DOJ are officers of the court and must adhere to strict professional and agency related rules of professional conduct. These attorneys, particularly those charged with filing documents with the court, should be dedicated to their client’s interests, and be disinterested in politics, political influence, or personal preferences always. Even mere appearances of impropriety regarding DOJ attorneys’ reputation for honesty and integrity can affect the case, the even-handed administration of justice, and, worse, the confidence of the American people. This is especially true for DOJ, which has faced accusation of having become politicized over the past four years.

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While more facts need to be developed, there are a variety of potential ethical and legal violations, particularly if it is determined that this confidential internal legal memorandum was in fact filed on the public docket purposefully with the intent of undermining the Secretary and Department’s legal efforts and goals. Chief among our concerns are potential breaches of attorney-client privilege, potential violations of the rules of professional conduct, and other potential criminal activity. For example, attorneys are prohibited from revealing information related to the representation of a client without informed consent of the client.³ Attorneys are also prohibited from engaging in legal misconduct which includes dishonesty, fraud, deceit, or conduct prejudicial to the administration of justice.⁴ Further, if it is found that this was done willfully, other federal criminal laws may be implicated such as 18 U.S.C. § 641 – Theft of Government Property, and 18 U.S.C. § 1030 – Computer Fraud and Abuse Act (CFAA) to name a few. A full investigation is needed to determine if this was a case of an incompetent and inadvertent filing, or if this was a matter of DOJ attorneys intentionally undermining the USDOT, the Secretary of Transportation, and the American people.

Overview

On April 23, 2025, DOJ attorney Dominika Tarczyska filed a confidential memo on the federal docket through the “Public Access to Court Electronic Records” System, also known as PACER, which outlined opposition to USDOT’s legal strategy in *MTA v. Duffy*, 1:25-cv-01413.⁵ The following day, April 24, 2025, Attorneys, Dominika Tarczyska, Christine Poscablo, and David Farber, drafted a letter to the court explaining that the filing was inadvertent and asking the court to remove it from the docket.⁶

² Id.

³ ABA Model Rules of Professional Conduct - Rule 1.6

⁴ ABA Model Rules of Professional Conduct - Rule 8.4

⁵ <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:7d1ffc8f-0c93-434c-a0f5-02f50bd59691>

⁶ https://www.washingtonexaminer.com/news/justice/3390860/doj-wrong-letter-judge-admitting-weaknesses-nyc-congestion-pricing/#google_vignette

After the news of this concerning incident was widely reported in the press, we trusted that this must be the result of an apparent unfortunate, and inadvertent mistake. Upon further analysis though, and after consultation with lawyers familiar with the filing process on PACER, we believe that the acts and circumstances here are at the very least concerning and warrant further review and investigation for several reasons.

While an inadvertent filing on PACER can happen, more facts are needed to determine how exactly this was inadvertent. For instance, was the government required by the court to file a document, motion, or some other court required filing by April 23 in the case? Also, what was the document categorized as when it was filed? Did the staff or attorney who filed the document eventually replace it with the document that they intended to file? What was that document? All of these questions are important and relevant to whether this document was actually filed inadvertently.

The attorneys involved in the filing have a history of engaging in partisan political activity and being involved in non-profit organizations who step into the political arena. While government attorneys are undoubtedly free to engage in politics in their private capacity, all the political and non-profit activities engaged in by the attorneys on this matter are on behalf of causes championed by the Democratic Party or Democratic candidates. Below we detail each attorney involved and their history of involvement in political campaigns and causes.

Attorney Dominika Tarczynska

Dominka Tarczynska is an attorney with a history of donating and supporting Democratic Party candidates and causes championed by the Democratic Party. Ms. Tarczynska has been a registered Democratic Party voter in the state of New York and the District of Columbia. According to the Federal Election Commission and the Center for Responsive Politics, Ms. Tarczynska has made several contributions to Democratic candidates over the years: Montanans For Jared (2017, \$300.00), Brian Benjamin (2021, \$50.00), Bernie (Sanders) 2016 (2016, \$50.00).

On March 26, 2013, Ms. Tarczynska expressed her support for the Human Rights Campaign on Facebook.⁷ The Human Rights Campaign is an organization actively involved in advocating against policies being pursued by the Trump administration and has publicly demonized the president and those serving under him. For example, in April 2025, the group urged the Supreme Court to uphold LGBTQ+ Inclusive Education.⁸ In February 2025, the group condemned the Trump administration's decision to prevent transgender individuals from serving in the military.⁹ And finally, also in February 2025, the group criticized President Trump's

⁷ <https://www.facebook.com/dominika.tarczynska.319/posts/10151495387143972:466581955564302?rclid=rEscGalcMV1ZxjyR#>

⁸ <https://www.hrc.org/press-releases/human-rights-campaign-foundation-scotus-must-uphold-access-to-inclusive-education>

⁹ <https://www.hrc.org/press-releases/human-rights-campaign-foundation-lambda-legal-condemn-department-of-defense-transgender-military-ban-policy>

Executive Order preventing transgender individuals from participating in women's sports.¹⁰

In sum, Ms. Tarczynska's registration as a Democrat, her donations to Democratic political candidates, and her clear public support for an organization which advocates in the interests of the progressive, LGBT movement and against the policies and priorities of the Trump administration, shows that there is evidence to suggest the filing was potentially made with the intent of undermining Secretary Duffy, USDOT, and the Trump administration.

Attorney Christine Poscablo

Christine Poscablo is also an attorney with a history of donating to and supporting Democratic Party candidates and making public statements in support of causes championed by the Democratic Party. According to the Lexis Nexis public records database, Ms. Poscablo is a registered Democratic Party voter in the state of New York. According to the Federal Election Commission and the Center for Responsive Politics, Ms. Poscablo has made several contributions over the years to Democratic Party political campaigns including McGrath For U.S. Senate (2020, \$225.00), Biden For President (2020-2024, \$196.00), Friends Of Lucy McBath (2020- 2024, \$155.00), Democratic Majority Action (2022-2024, \$150.00), Harris For President (2024, \$100.00), Michelle Daugherty Siri (2022, \$100.00), Max Rose For Congress (2022, \$55.00), Harris Victory Fund (2024, \$50.00), John King Jr. (2022, \$50.00), Democratic National Committee (2020, \$42.00), ActBlue (2020-2024, \$25.50), Anna Kaplan For New York (2024, \$25.00), Jamie Harrison For U.S. Senate (2020, \$25.00), Biden Victory Fund (2020, \$25.00), Warnock For Georgia (2020, \$25.00), and Jon Ossoff For U.S. Senate (2020, \$15.00). There is no evidence of contributions to a candidate of another political party.

In 2025, Ms. Poscablo promoted social media content from a former USAID worker who had broken an agency gag order to call the changes to USAID instituted by the new administration "illegal."¹¹ Ms. Poscablo lent her credibility to the post on a social media site dedicated to business issues even though the post expressly stated that USAID employee were under an internal "[gag order](#)" and that the content of the post likely violated that order.¹²

When combined with the supposedly inadvertent filing, the body of evidence on Ms. Poscablo suggests the potential misplaced allegiances. Ms. Poscablo's registration as a Democrat, her donations to Democratic political candidates, and her clear public support for USAID workers who were speaking out against the Trump administration in violation of an internal "gag order," shows that there is evidence to suggest that her involvement in the filing was potentially made with the intent of undermining Secretary Duffy, USDOT, and the Trump administration.

¹⁰ <https://www.hrc.org/press-releases/donald-trump-takes-aim-at-student-athletes-continues-obsession-with-attacking-lgbtq-youth>

¹¹ https://www.linkedin.com/posts/elizabethmorrillrn_i-work-for-usaid-i-lost-my-job-today-i-activity-7293008763748245505-jOSm?utm_source=share&utm_medium=member_desktop&rcm=ACoAABVG0yIB_0zllEyUrfJyIYK06egkdXOkugA

¹² https://www.devex.com/news/scoop-usaid-employees-barred-from-discussing-4-executive-orders-publicly-109144?skip_optional_steps=true

Attorney David Farber

David Farber is an attorney with a history of donating to and supporting Democratic Party candidates and causes. According to the Lexis Nexis public records database, Mr. Farber is a registered Democratic Party voter in the state of New York. According to the FEC and the Center for Responsive Politics, Mr. Farber has made several contributions to Democratic campaigns over the years including Jon Ossoff For Senate (2020, \$333.34), Warnock For Georgia (2020, \$333.33), Fair Fight (2020, \$333.33), and Jon Ossoff For Congress (2017, \$25.00).

Mr. Farber has also been a Regional Board Member of the “You Can Play Project” since its founding of the organization in 2012. You Can Play is a non-profit organization dedicated to “ensuring equality, respect, and safety for all athlete and sports fans, without regard to sexual orientation and/or gender identity.”^{13 14}

You Can Play advocates for biological men to be permitted to play women’s sports and supports and promotes diversity, equity, and inclusion (DEI) programming. You Can Play is also dedicated to opposing the Trump agenda.^{15 16} In 2025, You Can Play criticized legislation to prevent transgender individuals from participating in women’s sports.¹⁷ The group said further on the legislation:

“This bill is not progress, it is not the solution to very real challenges facing women’s sports. It is targeted discrimination. Since the inception of sport, we have trusted sport administrators and league organizers to make the best decisions for their respective sports. We need to get back to taking sport administration out of the hands of big government identity politics and put it back in the hands of knowledgeable and passionate individuals who actually understand sports. You Can Play strongly encourages the U.S. Senate to actually support women & girls in sport, and vote NO on HB-28.”¹⁸

Additionally, following President Trump’s victory in the 2024 presidential election, You Can Play published a blog post entitled, “Our Fight Has Just Begun”.¹⁹ In the post, You Can play stated:

“In the wake of a divisive election in the US...and several companies publicly pulling back their DEI initiatives; it’s tempting to feel defeated. The attacks on the LGBTQ+ community weren’t just part of the conversation—they were weaponized as central to a platform that unfortunately won over some voters. For those of us at the You Can Play Project and for everyone who believes in the power of inclusion, it’s a bitter pill to

¹³ www.youcanplayproject.org

¹⁴ [David Farber’s LinkedIn Page](#)

¹⁵ <https://www.youcanplay.org/mission>

¹⁶ <https://you-can-play-newsroom.prezly.com/congress-deals-a-loss-for-women--girls-sport>

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ <https://www.youcanplay.org/post/our-fight-has-just-begun>

swallow but more importantly, a vital call to refocus our message and hone our mission. We cannot afford despair. Instead, we must regroup, rethink, and recommit to a fight that is far from over.”²⁰

This quote, among others is evidence of You Can Play’s desire to be a central player in opposition to the Trump administration, particularly as it relates to their advocacy for biological men being permitted to play women’s sports.

When combined with the supposedly inadvertent filing, the body of evidence on Mr. Farber suggests the potential for misplaced allegiances. Mr. Farber’s registration as a Democrat, his donations to Democratic political candidates, and his involvement in the leadership of a non-profit organization from its inception which is a central player in the opposition to many key policy priorities of the Trump administration, shows that there is evidence to suggest that his involvement in the filing was potentially made with the intent of undermining Secretary Duffy, USDOT, and the Trump administration.

Conclusion

United States Attorneys should be objective, nonpartisan civil servants dedicated to a fair and even enforcement of federal law and a zealous advocacy for their client, no matter their personal political beliefs. While Attorneys Tarczynska, Poscablo, and Farber claim to have inadvertently filed an internal legal memo wherein they criticize the legal strategy of Secretary Duffy and USDOT, given their extremely partisan backgrounds more fact development is needed to determine how and why this memo was filed on PACER.

With the facts that we know, we believe there is ample evidence to explore this unfortunate event further. We ask DOJ to begin an investigation into the facts and circumstances surrounding the April 23, 2025 PACER filing of an internal legal memo authored by Attorneys Tarczynska, Poscablo, and Farber in the matter of *MTA v. Duffy*, Case No. 1:25-cv-01413.

Sincerely

Houston Keene
Director
Democracy Restored
<https://www.democracyrestored.org/>

²⁰ Ibid.