

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

PLYMOUTH SUPERIOR COURT
INDICTMENT NO.: 2383CR00198

COMMONWEALTH

V.

LINDSAY CLANCY

**COMMONWEALTH'S MOTION TO PRECLUDE PREJUDICIAL
EXTRAJUDICIAL STATEMENTS TO THE MEDIA**

Now comes the Commonwealth in the above captioned matter and respectfully moves of this Court for an order prohibiting counsel of record, and agents thereof, from making extrajudicial statements to the media that would have a substantial likelihood of materially prejudicing the criminal proceedings in this matter. Lawyers representing clients in pending cases are key participants in the criminal justice system, and the State may demand some adherence to the precepts of that system in regulating their speech as well as their conduct. Gentile v. State Bar of Nev., 501 U.S. 1030, 1074 (1991). The Massachusetts Rules of Professional Conduct further requires "a lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Mass. R. Prof. C 3.6 (a). As such, the Commonwealth asserts that counsel for the defendant has engaged in substantial publicity pre-trial, during trial, and post-trial that has inevitably tainted any further venire with inflammatory statements about the prosecution of the case, the facts of

the case, opinions about the evidence presented as well as evidence not presented during trial, and the jury deliberations. Restraints on any further extrajudicial statements are necessary in this case to protect the integrity and fairness of the judicial system. Gentile, 501 U.S. at 1075; Sheppard v. Maxwell, 384 U.S. 333, 361 (1966). See also, United States v. Bulger, 2013 WL 3338749 (D. Mass).

Legal trials are not like elections to be won through the use of meeting hall, the radio, and the newspaper. In re Cobb, 445 Mass. 452, 472 (2005), citing Bridges v. California, 314 U.S. 252, 271 (1941). And in the current digital age, trials are not to be tried through social media posts, blogs, podcasts and clips on local, national and international media outlets. If the judicial system is to operate fairly, rationally, and impartially, as it must, and if the administration of justice is to proceed in an orderly manner, judges and attorneys alike must act with responsibility toward [due process and the rule of law]. In re Cobb, 445 Mass. at 472-473. “The outcome of a criminal trial is to be decided by impartial jurors, who know as little as possible of the case, based on material admitted into evidence before them in a court proceeding. Extrajudicial comments on, or discussion of, evidence which might never be admitted at trial and *ex parte* statements by counsel giving their version of the facts obviously threaten to undermine this basic tenet.” Gentile, 501 U.S. at 1070.

Since January 2023, this case has attracted an enormous amount of attention that was compounded as the trial commenced in July 2026. Throughout the course of pretrial litigation, defense counsel responded to media inquiries and participated in press conferences. During the course of several weeks of trial, defense counsel fielded questions from a growing assemblage of spectators, news media correspondents and

internet bloggers outside the doors of the courthouse each and every day following the conclusion of the court day. He would comment on how the defendant was doing and feeling. He would comment on witnesses that testified that day. In a specific instance, the defendant gave an opinion as to the character of one of the Commonwealth's testifying experts. And following the declaration of a mistrial on September 4, 2026, defense counsel conducted several national televised interviews where he spoke about the case.

In several televised interviews defense counsel characterized the defendant as a wonderful, intelligent and incredible person. He stated in an interview with CNN and ABC that the defendant did nothing wrong other than go to her doctor and happened to see this particular doctor, referring to his prior disparaging comments about Doctor Jennifer Tufts. Defense counsel further commented about Patrick Clancy's testimony in relation to the 911 call indicating no actor could imitate such gut-wrenching horror. He asked for a pardon for the defendant from President Trump.

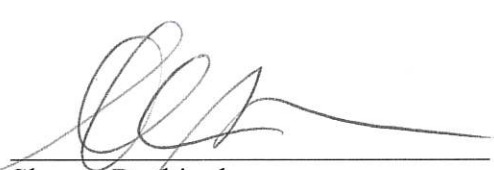
And most disturbing, defense counsel spoke to the media about the deliberating jurors in the case. Counsel referred to the "hold out juror" in ways that ensured that the juror would be publicly identified. He referred to the juror in statements on September 3, 2026, as "he." Prior to details about the juror's race and sex being disclosed by other outlets, defense counsel was referring to "him" as the lone "hold out" in a deliberating jury that contained only three males. In addition, defense counsel repeatedly referred to the juror as a man who robbed the other jurors of their time, who robbed the defendant of an acquittal. In in the same instances defense counsel praised the foreperson as courageous and the jurors, minus one, were so attentive, so beautiful, so wonderful. He

reported to newscasters at CNN following trial that the defendant has strong feelings, respect and love for the jurors.

Under the caselaw and ethical rules, limitations on lawyer's speech is aimed at two principal evils: comments that are likely to influence the actual outcome of the trial and comments that are likely to prejudice the jury venire. Gentile, 501 U.S. at 1075. In order to prevent the carnival atmosphere that was the trial between July 21, 2026, and September 4, 2026, as well as the aftermath since, this Court can and should limit the extrajudicial statements made in this case to ensure the fair administration of justice and prevent any further pollution of any potential jury venire as well as subsequent witness testimony. Commonwealth submits the attached proposed order for the Court's consideration.

Respectfully Submitted:
For the Commonwealth,



Jennifer Sprague
Assistant District Attorney

Shanan Buckingham
Assistant District Attorney

Date: 9/28/26

COMMONWEALTH OF MASSACHUSETTS

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V.

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ORDER RESTRICTING EXTRAJUDICIAL STATEMENTS
IN ONGOING CRIMINAL PROCEEDING

WHEREAS, the Court has reviewed the record, considered the parties' submissions, and taken judicial notice of recent events surrounding this case;

WHEREAS, the Court finds:

1. **Extensive Media Coverage** — Local, national, and international media outlets have published and broadcast the identities of discharged jurors and alleged statements made during deliberations, none of which are part of the public record;
2. **Social Media Amplification** — Social media platforms have been used to circulate unverified claims, leaked materials, and commentary from individuals purporting to have inside knowledge of the case and jury deliberations;
3. **Harassment of Discharged Jurors** — Following jury selection proceedings, certain discharged jurors have been subjected to unwanted contact, online harassment, and public speculation about their views and deliberative process;
4. **Risk to Fair Trial Rights** — The above circumstances create a substantial likelihood of materially prejudicing both the defendant's and the Commonwealth's right to an impartial jury and a fair trial, and threaten the integrity of the judicial process;
5. **Necessity of Narrowly Tailored Restrictions** — The Court finds that narrowly tailored restrictions on extrajudicial statements are necessary to mitigate these risks while preserving the public's legitimate interest in open judicial proceedings.

IT IS HEREBY ORDERED that:

1. Scope of Order

This Order applies to:

- All defense counsel, prosecutors, their staff, investigators, consultants, and any person acting under their direction or control;
- All law enforcement officers involved in the investigation or prosecution of this matter.

2. Prohibited Conduct — Defense Counsel & Agents

No person in this category shall:

- Make or authorize any public statement to the press, broadcast media, or social media concerning the deliberative process or the identity or conduct of any discharged juror;
- Disclose, directly or indirectly, any non-public information;
- Provide to the media any documents, exhibits, or recordings not admitted into evidence or otherwise part of the public record;
- Comment on the character, criminal record, or alleged conduct of any party, witness, or discharged juror in a manner reasonably likely to influence public opinion or a prospective jury pool.

3. Prohibited Conduct — Prosecutors, Law Enforcement & Agents

No person in this category shall:

- Make or authorize any public statement that goes beyond the public record or is reasonably likely to heighten public condemnation of the accused;
- Disclose investigative details, evidence, or witness identities not already part of the public record;
- Provide to the media any documents, exhibits, or recordings not admitted into evidence or otherwise part of the public record;
- Comment on the defendant's character, prior criminal record, or alleged conduct in a manner reasonably likely to prejudice the proceedings.

4. Permitted Communications (Both Sides)

Counsel and law enforcement may state, without elaboration:

- The general nature of the charge or defense;
- Information contained in public court filings;
- The scheduling or result of any stage in the proceedings,
- And any other statement that is consistent with and in the confines of Mass. R. Prof. C. 3.6 and Mass. R. Prof. C. 3.8.

5. Juror Protection

No person subject to this Order shall:

- Initiate or engage in any communication with a discharged juror outside of court proceedings, except as authorized by law or court order;
- Publicly identify, contact, or comment on any discharged juror in a manner reasonably likely to cause harassment, intimidation, or undue influence.

6. Enforcement

Violation of this Order may result in sanctions, including but not limited to contempt proceedings, monetary penalties, exclusion of evidence, or referral to the Board of Bar Overseers or other disciplinary authority.

7. Duration

This Order shall remain in effect until the conclusion of all post-trial proceedings, any post-trial motions, appellate periods, and subsequent trial proceedings, if necessary, unless modified by the Court.

SO ORDERED, this ____ day of _____, 20.

Justice of the Plymouth Superior Court