

**LAWFARE- The Weaponization of the legal system to attack your political adversary and his or her allies.**

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I have been a lawyer for 51 years. During that time, I have been involved in many different types of cases, but I have never seen the types of politically motivated cases that have been brought in this Presidential Election season.

These political cases are being used as a weapon of war to damage, defeat or impede political adversaries and their allies. Instead of political warfare, it is lawfare, and it is a cancer upon our collective judicial system. Lawfare is a stain on both the Department of Justice and District Attorney Offices throughout the nation.

Lawfare is a disaster for the rule of law. It is a disaster for Democrats and Republicans alike. Neither of those parties will hold power forever and when the opposite party takes control, it is not hard to imagine what will take place and it is not good for our country. What is not good for America should be opposed by all Americans.

Let me give you a little perspective about the different world I used to live in. I was a federal prosecutor in the United States Attorney's Office for the Southern District of New York. At one point, I was the Deputy Chief of the Criminal Division of

that Office. We handled many different types of cases during my time in the office. We handled quite a few cases involving alleged corruption by public officials. Some were Democrats, some were Republicans, some might have been from a lesser political party. Not once was the defendant's political party ever mentioned. It simply did not matter. It was not a factor ever considered with respect to the issue of whether to bring charges or not. That was the way it was in the Southern District of New York and likely every other US Attorney's Office at that time.

Unfortunately, I cannot say the same thing for today. Prosecutors are supposed to investigate crimes and prosecute those who commit them—not announce targets first and investigate until they can bring some charge, no matter how tenuous. But these days, you see individuals running for prospective office who claim the if you elect me, I will bring down this public figure or that public figure who disagrees with my political philosophy.

Understand that to destroy a political rival you need not convict that person of a crime, all you must do is leak the fact that the individual is being investigated for a particular crime, thereby destroying his or her reputation and causing that individual to incur legal fees to defend themselves. The net result is, if you can destroy their reputation and bankrupt them with legal fees, you have effectively eliminated or cancelled your opposition without ever convicting them of a crime or getting a civil judgment against them. This has to stop.

This is what's going on right now in Manhattan in a case entitled *People v. Trump*. This is a case my old office, the SDNY, turned down because they assessed that Michael Cohen, the so-called star witness, was totally unworthy of belief.

Let me talk about my experiences over the past five years, particularly with Michael Cohen.

You may wonder how a lawyer can discuss his interactions with a former client. The short answer is that Michael Cohen, for reasons that I will explain, waived the attorney-client privilege and the duty of loyalty of a lawyer to a client.

Why would he do something like that? Well, Mr. Cohen, who was then represented by different counsel, pled guilty to eight counts in an indictment in the Southern District of New York, seven of which had nothing to do with President Trump and indeed pre-dated the first meeting between Cohen and Trump. As a part of this plea negotiation, Mr. Cohen decided he would attempt to cooperate to reduce his upcoming sentencing. And Cohen then took a foolish step by lying that he had evidence that Rudy Giuliani and I had conspired to obstruct justice by dangling a pardon for him to keep his mouth shut about Donald Trump. That was totally false and utter nonsense.

The AUSAs told Cohen that to investigate his allegation, he would have to waive the attorney client privilege, otherwise I would not be able to answer the questions that the US Attorneys would ask. Cohen, with counsel present, waived the attorney client privilege in writing. Later, after I testified in the Manhattan grand jury, Cohen falsely stated on national

television that he had not waived the privilege. I was able to conclusively refute this by showing the written waiver on camera on a different national show, one hour later.

After the US Attorney's Office supplied me with the waiver, they requested an extensive document production, which I complied with, and after that, two Assistant US Attorneys and two FBI agents interviewed me for approximately 3 and ½ hours. I told them that Cohen's allegation was a lie and proved it with the numerous emails, text messages and contemporaneous memos to the file. After that, the US Attorney's Office never dealt with Cohen again—having concluded, rightly, that he was a habitual liar and totally unreliable witness. That office chose to not bring any charges against President Trump. Clearly the correct decision. But the same cannot be said for the New York District Attorney's Office.

After receiving the waiver of the attorney client privilege, I remember watching television and seeing Michael Cohen crowing about what he claimed he was telling the District Attorney and what he was telling the grand jury. The statements Cohen was making about President Trump were diametrically opposed to what Michael Cohen had told my law partner, Jeff Citron, and myself at the Regency Hotel in Manhattan on April 17, 2018.

I knew then that I couldn't let these inconsistent statements stand. Many people advised me not to get involved, but my conscience would not allow me to stand by and let Cohen tell the District Attorney and the grand jury the opposite of what he

told us at a time when he was most vulnerable, indeed suicidal, and desperately searching for “an escape route” as he called it, from the legal difficulties that he knew were coming. That is the reason I decided to contact both Trump’s counsel as well as the Manhattan District Attorney’s Office.

I gave both sides the same written materials that I had provided to the US Attorney’s Office for the Southern District of New York. I asked to meet directly with Alvin Bragg so I could explain the exculpatory material I had, to prevent what I saw as a potential miscarriage of justice. Alvin Bragg refused my offer. Then the Trump lawyers demanded, as was their right, for the District Attorney to put me in front of the grand jury. The District Attorney had no choice under the law but to put me in front of the grand jury. Because I was trying to show that I was being fair to both sides, I offered to participate in a zoom meeting with members of the District Attorney’s prosecution team on the Friday before my grand jury appearance on Monday.

The Zoom meeting was with approximately 8 Assistant District Attorneys. It began with one ADA saying: “assume we have read all your materials, what do you want to say?” Hardly a warm greeting for someone trying to help them get to the truth. All the collective group did was sit and listen as I described the many lies told by Cohen. But most importantly, I told them how, at a time when Cohen was suicidal and desperately looking for an escape route, I advised him that the SDNY thought he had committed crimes and that he might have evidence they could use for a prosecution of President Trump. I explained to Cohen how he was not the target of the investigation but was a bump in

the road and that the US Attorney's office would run over him if it led them to Donald Trump. I explained that if Cohen had truthful information that would implicate Donald Trump, I could get him out of his legal troubles by the end of the week, if he cooperated against Donald Trump. I emphasized that any information Cohen could give would have to be truthful, otherwise it was useless.

I did this numerous times during our first two-hour meeting. Each time Cohen said to me: "I swear to God, Bob, I don't have anything on Donald Trump." Cohen must have said this at least ten times because I kept coming back to it from different approaches. Cohen kept on saying: "Guys I want you to remember, I will do whatever the F... I have to do, I will never spend one day in jail." I even said to Cohen at one point: "Michael, now is the time to tell the truth and cooperate if you want your legal problems to disappear." Cohen would again reply: "I swear to God, Bob, I don't have anything on Donald Trump." After hearing this several times, I said to Cohen: "Michael, think about this...you said the other night you were on the roof of the Regency and seriously contemplating jumping off because you couldn't handle the pressure of the upcoming criminal case, so I want you to consider: isn't it easier to cooperate against Donald Trump if you have truthful information, than it is to kill yourself?" Cohen's answer was once again the same answer: "I swear to God, Bob, I don't have anything on Donald Trump."

Through further cross examination Cohen told me that he knew there was money missing from the Trump Inauguration fund, but that Donald Trump had nothing to do with it and didn't

even know about it. I then asked about the NDAs that Cohen had referenced earlier when he said: “I can’t believe they are trying to put me in jail for an NDA.” He was referring to the Stormy Daniels NDA. I noted that there is nothing illegal about an NDA, it happens all the time to settle civil claims. I then had Cohen explain to Jeff Citron and myself what his involvement was with the NDA. Cohen said that a lawyer for Stormy Daniels approached him and said Daniels was going to allege that she had sex with Donald Trump unless Trump was willing to buy her silence with a non-disclosure agreement. Cohen decided that while he didn’t believe the allegation, he thought the story would be embarrassing for Trump, and especially for Melania, so he decided he would take care of this himself.

The reason and his motivation for this became obvious upon further revelations by Cohen regarding the fact that when Trump’s inner circle went to Washington after the Inauguration, Michael Cohen was left behind in New York. Cohen stated that he thought that when Trump became President, that he, Michael Cohen, could become Attorney General of the United States or at least Chief of Staff to the President. As delusional as this may be, Michael was angry that he had been left out. Procuring this NDA would be a way to ingratiate himself with Donald Trump and save embarrassment for Melania because he knew that Donald Trump was very concerned about not doing anything to embarrass Melania.

Cohen then explained that for that reason he negotiated the sum of \$130,000 in exchange for the NDA. When asked if Trump had any knowledge of this, Cohen told me no. When asked whether Cohen got the \$130,000 from Trump or any

Trump entity or friend, Cohen again said no. When asked if this was from Cohen's own money, Cohen said no. He was asked where, then, did he get the money and Cohen explained he took out a HELOC Loan because he didn't want anybody to know where the money came from. He specifically said he didn't want Melania to know, and he didn't want his own wife to know since she handled the family finances, so if Michael took out \$130,000, his wife would know immediately and would ask questions.

Throughout this two-hour interview, Michael Cohen made clear that this payment to Daniels was his own idea, designed to try and get him back into the inner circle of Trump people in Washington. Cohen also said at least twenty times "Guys, I want you to know I will do whatever the f... I have to do; I will never spend one day in jail."

The point is when Michael Cohen was presented with the opportunity to implicate Donald Trump in exchange for eliminating his own enormous legal problems, he repeatedly said he had nothing truthful on Donald Trump.

Now, after going to jail, Michael Cohen is on a revenge tour because he blames Donald Trump for the loss of his law license and the fact that he did go to jail. The U.S. Attorney for the Southern District of New York saw this and acted properly. The Manhattan District Attorney took a different route to become famous and to "get" Trump.

Michael Cohen is simply not a credible man. Throughout the time that we were providing legal advice to Michael Cohen,



he lied repeatedly both about consequential and inconsequential details. Whenever it suited his purposes, Michael Cohen showed no hesitation to lie. The pattern is consistent that Cohen lies when he thinks it is to his own advantage but tells the truth when it is to Michael Cohen's own advantage. It was clearly to Cohen's own advantage if he had truthful information about Donald Trump to cooperate and reveal that information to aid himself by eliminating Cohen's own major legal problems that were causing him to consider suicide.

With respect to the ongoing Trump trial, I point out the following observations:

1. The allegations in the indictment are barred by the statute of limitations for the misdemeanor of making a false entry in business records; it is only elevated to a felony with a longer statute of limitations if the misdemeanor was committed to conceal another felony. Here is the rub—the indictment does not specify what the alleged other felony is. Current speculation based upon the testimony elicited is that the other felony is election fraud. That theory fails for two additional reasons, first the Manhattan District Attorney has no jurisdiction over the 2016 federal Presidential election; second the alleged false entry in the Trump organization books and records took place in 2017. How can an act committed in 2017 influence an election that ended in November 2016? The answer most recently propounded is that it was a conspiracy formed in 2015. That would be logical IF there was a conspiracy count in the Indictment—but there is not. There are 34 false entry

counts and nothing more. There is one defendant Donald Trump and no one else.

2. Finally, there is no doubt in my mind that in the event of a conviction, this case will be overturned on appeal for a variety of legal errors, perhaps the most egregious is the testimony of Stormy Daniels. That testimony was clearly irrelevant to the alleged crime of a false entry in the books and records. The payment and the NDA have never been disputed. The defense moved to prevent Daniels from testifying for that reason. Then after the New York Court of Appeals issued a ruling a little more than a week ago overturning Harvey Weinstein's conviction because the trial judge let in prior similar act evidence whose only purpose was to smear the defendant, the defense raised the issue again and sought a mistrial. When Judge Marchan was informed of this he said it wasn't applicable.
3. In the Trump case, they are seeking a conviction by any means necessary. They do not care if it is overturned on appeal because that will likely not happen until after the election. In the meantime, they will have effectively interfered with the 2024 Presidential election and perhaps influenced some voters because of an ill-gotten conviction.

This is the very definition of lawfare. It is happening in Manhattan before our very eyes. I hope members of this Subcommittee are as outraged about it as I am and I hope there is something you, as our national policymakers, can do to

remove the taint of lawfare from our justice system. I look forward to answering your questions.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
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 - v. - :  
 :  
MICHAEL COHEN, :  
 :  
 Defendant. :  
 :  
- - - - - X

WAIVER  
18 Cr. 602 (WHP)

I, Michael D. Cohen, hereby declare:

1. I am the defendant in the above-captioned case.
2. I was previously represented by the law firm of McDermott, Will & Emery ("MW&E") in connection with the investigation that preceded this case (the "SDNY Investigation"), as well as in connection with investigations into alleged Russian influence in the 2016 presidential election.
3. During the period in which I was represented by MW&E, I was approached by Robert Costello, Esq., of the law firm of Davidoff, Hutcher & Citron, LLP ("DHC"). Costello sought to represent me in connection with the SDNY Investigation and presented me with a retainer agreement. I declined to sign the retainer agreement and informed him that I was already represented. Although I subsequently had several other conversations and communications with Costello, at no time did I


sign a retainer or otherwise agree to retain Costello, nor did I ever consider Costello (or any lawyer at DHC) to be my attorney.

4. Although I do not believe that any of my communications with Costello or other lawyers at DHC are subject to attorney-client privilege, I hereby waive whatever attorney-client or other privilege that might be argued have attached to such communications.

5. I have discussed the foregoing with my current counsel, and make this waiver knowingly and voluntarily.

Dated: February 7, 2019  
New York, New York

  
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MICHAEL COHEN

  
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Michael Monico, Esq.  
Attorney for MICHAEL COHEN

## **Michael Cohen Representation**

This narrative will detail the interaction between Bob Costello and Jeff Citron of Davidoff Hutcher & Citron LLP with Michael Cohen. The narrative being suggested by Michael Cohen and Lanny Davis to the effect that Costello and Citron were sent by Trump or his representatives, to approach Cohen with claims that they had a close relationship with the President's lawyer, Rudy Giuliani, and could get Cohen a pardon if he kept his mouth shut about Trump is preposterous and demonstrably untrue. If Michael Cohen has told this false story to Congress and to the United States Attorney's Office for the Southern District of New York, he has committed two new federal crimes for which he should be indicted.

The initial contact between Cohen and Costello and Citron came about because Cohen and Citron have a prior history. Jeff Citron has known Michael Cohen for approximately 10 years. Michael Cohen was a member of the Board of Trustees of Columbia Grammar and Preparatory School in Manhattan while Citron and his firm were outside counsel to the school. This is the school that Baron Trump, the President's youngest son attended. In addition to that relationship Cohen and Citron are both on the advisory board for Sterling Bank. Michael Cohen had once asked Jeff Citron for help in finding Michael Cohen's brother a job. A number of weeks before Michael Cohen's office and residences were searched; Jeff Citron and Michael Cohen attended a Sterling Bank meeting and had spent some time chatting following the meeting.

### **APRIL 16, 2018**

When news spread that Michael Cohen's Law Office and his residences had been searched by federal agents, Jeff Citron sent Cohen an email of commiseration and noted that he (Citron) had a partner who had been the Deputy Chief of the United States Attorney's Office for

the Southern District of New York, the same office that had obtained the search warrants. That law partner was Bob Costello who Citron noted had represented celebrity figures in the past such as George Steinbrenner and Leona Helmsley. Citron offered that if Cohen wanted to pick Costello's brain, Citron would be delighted to arrange that.

**APRIL 17, 2018**

The next morning, April 17, Michael Cohen replied in an email thanking Jeff Citron and asking him to set up a meeting between Costello and Cohen. Since Cohen reported that reporters were camped out around the Regency Hotel where he was staying, and those reporters would follow Cohen wherever he went, Cohen said he could not come to the offices of Davidoff Hatcher & Citron and requested the lawyers come to the Regency because the reporters would not know who they were.

Costello and Citron went to the Regency that same afternoon April 17<sup>th</sup>, and met with Cohen in a second floor conference room for approximately two hours. The meeting began with Cohen closing the drapes on the conference room windows so that the people in the office building opposite could not look in. Cohen was in a highly agitated state, initially pacing on the opposite side of the conference table and then he grabbed a seat.

**INITIAL MEETING TUESDAY, APRIL 17, 2018 -REGENCY HOTEL, NEW YORK CITY**

Citron introduced Bob Costello and repeated to Cohen that Bob had been the Deputy Chief of the Criminal Division and had represented a number of high profile individuals in connection with both civil and criminal investigations. Citron asked Bob to give Michael his background, which he did.

**SUICIDE THOUGHTS AND VOWS TO NEVER SPEND ONE DAY IN JAIL**

Cohen then began by thanking the lawyers for coming and began to summarize his

situation. Cohen described the search warrant executions and said that he is surrounded by reporters, his business is ruined, his reputation is ruined, his family is suffering. He said he simply can't take the pressure and he does not know what to do. At that point, Michael Cohen looked like he had not slept in days and then he said: "this pressure is overwhelming. Over the weekend I was up on the roof of the hotel seriously contemplating jumping off". He said: "One thing I can tell you is that I am never going to spend one day in jail, never. I will do what I have to do, but I will never spend one day in jail."

Costello told Cohen that the pressure he was feeling is exactly what the FBI and the Prosecutors wanted him to feel. They want to exert as much pressure on you as possible until you reach the point where you conclude your only way out of this situation is cooperation. Cohen replied but I am cooperating. Cohen said that he had cooperated with the Special Counsel, the House and the Senate. He said they requested "tons of documents" and he turned everything over. That's why, he said, he didn't understand why they executed search warrants. All they had to do is ask, and I would have turned over whatever they wanted. Cohen added that he couldn't believe that they wanted to put him in jail for a "f.....n NDA". Costello then asked: "what is your exposure, what did you do Michael that they are investigating?" Costello pointed out that this was an attorney client privileged conversation and that the conversation and the communications made in that room would remain confidential. Cohen said he understood that. Costello then repeated the question and Cohen responded that the only thing he did was the non-disclosure agreements with Stormy Daniels and the McDougal woman. Costello said Michael "the Government could not have obtained the search warrants on that basis, so there must be more." Cohen responded that he swore there was nothing, there was nothing in his past that he did that violated the law. Cohen insisted that he had no idea why the Government would obtain



the search warrants because he was cooperating and in any event he had done nothing, except for the Stormy Daniels and Karen McDougal situations.

Costello then asked Cohen to explain the Stormy Daniels and Karen McDougal situations and Cohen complied. During the course of his discussion involving Daniels, Cohen stated that he obtained the \$130,000 that he was going to use to make the payment by taking a “Heloc”. Cohen did not explain the term and the Citron and Costello did not ask him what he meant. Cohen does not relate stories in a linear way. Cohen skips around in time and changes subjects easily and then drifts back to the original story. These notes are presented in a more linear fashion than Cohen’s actual exposition. At one point in time, Cohen said ironically that the Heloc was necessary because he did not want his wife to know exactly what he was doing.

#### **COHEN WANTS TO KNOW ALL OPTIONS**

At one point, Cohen stated that he wanted to know what all of his options were. Cohen said he read about the possibility that the President could pardon him and there was speculation that Cohen would seek an immunity agreement from the Government. In both cases, Cohen also noted that there was a lot of talk in the media, that if either of those two scenarios happened, that the New York Attorney General and the Manhattan District Attorney were both saying that they would seek to prosecute that individual for State crimes. Cohen seemed totally fixated on that question. Costello said he did not think the local prosecutors could do that but he would like to look at the law before he was definite about that subject. Cohen continually came back to the point of saying: “I will never spend one day in jail. I will do what I have to do.” He seemed quite angry when he was making those statements.

#### **COHEN CLAIMS HE IS ALREADY COOPERATING**

Cohen returned to the subject of his own cooperation. Cohen said he couldn’t understand the

use of a search warrant because he was already cooperating. He told us that he had cooperated with the Special Counsel and with both the House and the Senate. He said he turned over all of the documents they asked for and added that if the US Attorney wanted documents all they had to do was ask for them and he would have complied.

That led to a discussion of what evidence he might have that could be offered to the prosecutors to obtain immunity. Cohen again said the only thing he did was the non-disclosure stuff with Daniels and McDougal. When pressed about what else he knew, even if he was not personally involved in the activity that might be of value to the Government, Cohen said he knew that there was a lot of money missing and unaccounted for by the Inaugural Committee. Costello asked if that implicated the President and Cohen said no, I don't even think he knows about it. Along the way Cohen made a number of derogatory comments about Jared Kushner and Ivanka Trump Kushner but provided no specifics. Cohen drifted back to asking if I get a pardon or immunity can these state prosecutors go after me.

At some point in the conversation, Cohen was boasting about the fact that he claimed to know nearly everyone in the Trump Administration in Washington. While he appeared to have a grudge against Jared and Ivanka, he was not specific. Cohen said to Costello that when he was giving his background before, you mentioned that you once worked for Giuliani, Cohen said: "I love Rudy Giuliani, he's been friends with the "Big Guy" for years." The "Big Guy" was a nickname Cohen used for the President. When Cohen mentioned Giuliani, Citron noted that Bob's known him for years. Cohen asked Costello what his connection to Giuliani was and Costello responded that he knew Rudy since the 1970's but did not elaborate further. Giuliani was not part of the President's defense team. Cohen then listed all of the people in the Trump Administration that he knew and had worked with according to Cohen. Michael was showing

off, but quickly returned to his mantra that “I will never spend a day in jail, I will do whatever I have to in order to protect my family.”

At the end of the meeting, the following was clear, Michael Cohen was considering all options in order to make sure that he did not spend one day in jail. Michael was concerned that if he received a pardon or immunity he could still be prosecuted for state crimes. Michael was insistent that his only exposure was his involvement with Stormy Daniels and Karen McDougal. As the meeting concluded, Michael Cohen said that besides us, he was talking to at least one other attorney from a boutique firm who had Southern District experience. Costello asked Michael who that was, but Michael said I would rather not say at this moment. That is when Michael Cohen said for the first time, don’t worry I am forming a team to represent me so my talking to another guy does not exclude you, just as my talking to you, does not exclude them. Michael said to Costello:” I want a guy like you on my team. I want a guy that can deal with the press.” Jeff Citron then said: “OK Michael so let us know what you want to do, we are there for you if you want us to help and we think we can be of assistance to you.”

#### **POST MEETING LAWYER’S DISCUSSION**

When Costello and Citron left the hotel around 4:30 p.m., as they were walking down Park Avenue, Costello told Citron that Cohen was not leveling with us because the SDNY could not have obtained a search warrant on just the Stormy Daniels allegations. Costello added that it was not unusual for a prospective defendant in Cohen’s position to downplay his own involvement in whatever happened. Costello said it usually takes two or three meetings before they reveal the whole truth. Costello said if a Heloc is a home equity loan, then there was likely a bank requirement that the borrower specify what the funds were going to be used for and it was clear that Michael did not say that he was using the money to finance a non-disclosure

agreement. As a result, Costello said, Michael may be facing bank fraud charges which can be prosecuted as a state or a federal crime and maybe that is what Cohen is concerned about.

Costello and Citron discussed the fact that Cohen claimed to be already cooperating, yet the SDNY executed search warrants. Costello told Citron that if Cohen was telling the truth that he had nothing on the President that there was no way he could get immunity. This situation was particularly difficult to discuss meaningfully because it was clear that the SDNY believed Cohen was far more involved in this matter than just the Stormy Daniels and Karen McDougal events.

On his way home on April 17, AT 5:16 pm, Citron sent an email to Cohen: “Really glad we had the opportunity to talk with you. Hope we helped; Bob and I would love the opportunity to be a part of and work with your team as we believe we can help you on so many levels. Hang tough and think straight. Talk tomorrow.” Cohen responds with an email marked Attorney - Client privilege which claims it has an attachment but it does not. It appears the email was sent in error.

### **WEDNESDAY, APRIL 18, 2018- LEGAL RESEARCH ON STATE PROSECUTIONS FOLLOWING A PARDON OR IMMUNITY**

On April 18, at 6:50 pm, emails show that Costello has been using Westlaw, researching the issue of whether a pardon or immunity will protect Cohen from a subsequent state prosecution. Costello tells Citron that he thinks he has found an answer for Cohen but to not tell Cohen until he is certain.

### **THURSDAY, APRIL 19, 2018**

The morning of the next day, April 19<sup>th</sup> begins with news stories reporting that Jay Goldberg Esq., a former Trump lawyer, is speculating that Cohen “would sell out Trump” if he is charged. There is also an article that NYAG Schneiderman is trying to close the Trump pardon loophole to allow for state prosecutions. At 12:52 pm, Cohen sends an email that he will call

Citron later that day. At 5:52 pm, there is a report on Fox that Rudy Giuliani is joining the Trump Legal team. An hour later at 6:45pm, Costello emails Cohen with the news of Giuliani. At 7:36pm, Cohen replies: "Great News for Rudy, I know I owe you a call,... I will try tomorrow."

#### **FRIDAY, APRIL 20, 2018- PART OF THE TEAM-RETAINER DRAFTED**

On April 20, 2018, at 11:36am, Cohen calls Costello on his cell and they have a 33 minute conversation during which Cohen states: "It would be an honor to have you part of my team. I will be eternally grateful for the help and guidance you have already given me." Costello memorializes the quote in an email to his son, but notes that it has not yet been made public, but we have been authorized to contact Giuliani and tell him we will be representing Cohen. At 2:29 pm, Citron tells his other partners: "We are officially part of Cohen's team. Have been authorized to reach out to various players!" Citron emails Cohen at 4:32 pm, to say he is pleased with the discussion between Michael and Bob ...and am glad that we can help bring you some peace." At 5:31 pm Costello sends Citron's paralegal a draft of the Retainer agreement with Cohen.

#### **LATE FRIDAY EVENING, APRIL 20, 2018 FIRST GIULIANI CALL**

Around 10:30 pm, Costello and Giuliani speak for the first time about Cohen. Costello tells Giuliani that Cohen has authorized him to contact Giuliani and to tell him that Costello will be representing Cohen. Giuliani says that's great, it's so much easier to deal with an attorney you know well and can trust. Giuliani asks if it is ok to tell Jay Sekulow and the President and Costello says of course. This was just an introductory phone call with no substantive discussion of any kind. Costello emails Citron about the call who then says notify Cohen. Costello sends an email to Cohen just after midnight. Reference is made to a 'back channel of communication'

because that is the phrase Giuliani used. Nothing nefarious is intended by the use of that phrase because there was a joint defense agreement. This is a situation that exists in every joint defense agreement and Cohen was in a Joint Defense Agreement with the President as Giuliani acknowledged.

### **SATURDAY, APRIL 21, 2018**

At 2:24 pm, Costello sends Citron an email noting his surprise that Cohen has not responded to the email about the Giuliani contact. Later that afternoon, at 4:18 pm, Costello and Cohen have a ten minute call in which Cohen says it's great that you were able to make contact with Rudy as there a number of things I want the "Big Guy" to know. Cohen said he also wanted to find out how the Southern District wound up with this case. He wanted to know who was involved and who authorized a search warrant for his office and home. Cohen said: "there's a lot of stuff on the internet about me that simply isn't true. There are stories that I hate Trump, that I blame Trump for the search warrant and that I am telling my friends that I am cooperating. These stories are all bullshit and I want the "Big Guy" to know that." Costello then called Giuliani and left a message. Later Giuliani called back and Costello reported all that Cohen had said and Giuliani thanked him and said it's good that we can talk and avoid these misunderstandings that are being promoted in the media. Giuliani asked Costello to assure Michael that the President does not hate him and in fact the President feels very bad that Michael is in the situation he is in and understands how hard this must be on Michael's family. At 8:57 pm, Costello sends Cohen an email summarizing the Giuliani conversation. Since Cohen had been in a highly agitated state and talking about suicide, Costello tries to calm him down with a valediction he often uses of "Sleep well tonight" and then adds that Michael has "friends in high

places” clearly a reference to the President of the United States. There was nothing more intended by the phrasing. There was no discussion or hint about the topic of pardons. Simply put, there was no hidden message or agenda. Sleep well tonight is a phrase Costello has used in other emails to other clients. It is simply a phrase in his lexicon.

#### **SUNDAY, APRIL 22, 2018 - PARDON DISCUSSION**

At 12:32 pm, Giuliani returns Costello’s earlier call. They have an 8 minute conversation. At 2:09pm that day, Cohen returns Costello’s two earlier telephone messages on the cell, and they have a 19 minute conversation. Costello believes that this is when Cohen again raises the issue of pardon that was first discussed at the initial meeting at the Regency Hotel on April 17. Cohen says that now that communication has been established with Giuliani, Cohen wants Costello to find out from Giuliani if a pardon is on the table. Costello tells Cohen that is not a wise move. Costello says it is premature and that no one in their right mind would be discussing a pardon at this stage of the proceedings. Costello notes that Michael has not been charged with any crimes and if he has told Costello and Citron the truth, the worst he is facing are charges relating to Stormy Daniels and McDougal which would be a campaign violation and likely not even a crime. Cohen insists again that is all he has done, but still wants Costello to raise the pardon issue. Costello agrees but says the response is a foregone conclusion. Cohen again asks Costello to find out from Giuliani how his case wound up in the SDNY.

#### **MONDAY, APRIL 23, 2018 -CONTACT WITH GIULIANI**

Sometime on Monday morning, Costello has a phone conversation with Giuliani. The first topic of discussion is the Cohen case and Michael’s interest in finding out how it wound up in the SDNY. Giuliani had previously indicated that he thought it would be easy to track down and thought he would have had the answer by Sunday, but that it has been more difficult than he

anticipated. Costello then sheepishly approached the pardon issue by stating I realize that this is likely premature, but Michael Cohen wants to know if a pardon is on the table. Giuliani reacted quickly and without hesitation said: “The President will not discuss pardons with anybody”. His tone, which had been quite pleasant, was a little curt, conveying the message that it was an annoying question and that Costello should not raise that topic again. Costello said that he understood and would convey the message to Michael. Costello did not know that anyone else, including reporters, had asked that same question previously.

At 11:44 am, Costello sent an email message to Cohen stating that he had spoken to the person “you asked me to” (Giuliani) and he did not have the answer to the question about how the case wound up in the SDNY. Costello then referenced the “question of timing” and added that he would expand on that when they met. That reference was to the pardon question which Costello had told Cohen was very bad timing because it was premature and Costello did not think the President would comment on that. Costello’s belief was confirmed by Giuliani. Although Cohen indicated disappointment when he was told of Giuliani’s response, Costello did not think it was a big deal, because at that point in time, Cohen had not been charged with any crimes and he continued to insist his only exposure was with reference to Stormy Daniels and Karen McDougal.

**WEDNESDAY April 25, 2018 US ATTORNEY’S ALUMNI DINNER (Fiske Dinner)**

Costello attends the US Attorney’s alumni dinner and hears Audrey Strauss, Senior Counsel at the SDNY tell others present that “the office (SDNY) is in good shape on the Michael Cohen case”. The clear import of these remarks is that there are more substantial charges that will be forthcoming with respect to Michael Cohen and that the search has yielded good results for whatever crimes they were investigating. This was not startling at all, but was consistent with



Costello's belief that Michael Cohen had not been telling the truth about his own involvement in criminal activity and that as expected, there is far more to this case than Michael Cohen has admitted to Costello and Citron.

**THURSDAY-APRIL 26, 2018 - BARBARA JONES APPOINTED SPECIAL MASTER**

On Thursday, it is announced that Barbara Jones would be the Special Master to go through the materials seized and make preliminary determinations with respect to the attorney client privilege. Michael Cohen was spending all of his time at McDermott Will & Emery going through all of the materials that were seized during the execution of the three search warrants. There is no communication between Michael Cohen and Costello or Citron during this time period. DHC Associate Matthew Yogg is sent to Federal Court to monitor the court proceedings and report back to Costello with a memorandum.

**THURSDAY, MAY 3, 2018 -MICHAEL COHEN COMES TO DHC OFFICE**

On Thursday morning, Michael Cohen makes an appearance at the offices of DHC. This is the meeting that Cohen was promising for almost two weeks, but postponing it each time because he had so much work to do at McDermott Will & Emery in going through the seized materials. Cohen was concerned that he would be followed by reporters when he arrives at 605 Third Avenue so he asks if Costello can meet him downstairs and walk him through security, so he does not have to sign in. Costello agrees and brings Cohen through security shortly after 9:30 am. Costello and Cohen proceed to the 15<sup>th</sup> Floor Conference room where we were later joined

by Jeff Citron. While waiting for Citron to arrive from his office on the 34<sup>th</sup> Floor, Costello introduces Cohen to his secretary, Julia Forkash.

Michael then starts talking about the case and the Joint Defense Agreement. Cohen feels that Giuliani and the President are cutting Steve Ryan out of the loop. Cohen says they are making statements about everything without consulting with or even notifying Steve Ryan. Cohen says he is tired of just standing there silent, while he and his family get beaten up in the press. Cohen says he wants Costello, as he said before, to be his voice fighting back on television. He wants Costello to fight back on his behalf. Cohen says Costello is the best equipped to be his spokesman because he is assertive and aggressive. Cohen says Steve Ryan (MW & E) is not the right guy for that job. Cohen says you can't believe what they are doing to me. Cohen says the US Attorney even tried to get his transcripts from American University and his High School. Cohen said: "What the F... do my High school grades have to do with any of this?" This is the extremes they are going to, in order to put pressure on me.

Cohen then went on a rambling discussion of a number of topics. He says there is an "NDA" involving either a Gina or Gino Rodriguez and he talked about a Keith Davidson, a lawyer who came to his office. He mentions someone named "Kotsev" and then claims that Stormy Daniels and Avenatti are making up the "threat" story. With respect to President Trump, Michael Cohen refers to him as the "Boss" and says he loves him (Trump) and his Family and he absolutely will never put him (Trump) in jeopardy-ever." When Citron comes down, he hands Cohen a retainer agreement with the firm. Cohen takes the retainer and says he is under a lot of financial pressure and mentions the attorneys at McDermott Will & Emery. Cohen clearly intends to give the impression to us that he is paying the attorneys at McDermott. Jeff Citron tells Cohen: "Look Michael, we are here to help you, not to take advantage of you. If you are

having financial problems, because you're paying McDermott, we'll work with you. That will not be an issue." Cohen then deftly switches topics as he puts the retainer agreement away saying he will look this over later. Cohen tells Citron that he wants Costello to be his guy on TV fighting back on his behalf.

After about an hour meeting, Cohen said he had to go over to McDermott Will & Emery to continue going through documents, but he will return to DHC the next day.

Around 1:26 pm that same day, NBC News comes out with a story that Cohen's phones had been wiretapped. Costello sends Cohen a link to the story. Later that afternoon, NBC News backtracks on the story and now says the Feds put a pen register on Cohen's phones. Costello sends Cohen an email at 5:50pm explaining a pen register and suggesting they had an easier way to obtain the information as to whom Cohen was calling on his cell.

#### **FRIDAY MAY 4, 2018 - COHEN FAILS TO RETURN TO DHC OFFICES**

On Friday, Cohen failed to return to the DHC offices as he had promised the day before when he took the retainer agreement. At 11:07 am that morning Costello informs Citron by email that Cohen has failed to show. Costello recommends that we stop dealing with Cohen until he signs the retainer.

#### **SATURDAY- MAY 5, 2018**

Cohen calls Costello and they have a 20 minute conversation which Costello memorializes on Monday morning May 7 in an email to Citron.

## **MONDAY-MAY 7, 2018 -COSTELLO NOTES COHEN IS NOT TELLING THE TRUTH**

Costello sends an email to Citron summarizing his conversation with Cohen the previous Saturday. Costello says Cohen reports that there is nothing in the documents search that he is conducting at McDermott that causes him any concern. Costello tells Citron that is great news for Cohen if true, but Costello does not believe it. Costello notes that the SDNY does not go to these lengths without a strong belief that a crime has been committed. Costello points out that Cohen is claiming that he is not talking to anyone and was convinced that Rudy Giuliani was screwing things up. Costello confronts Cohen with reports that he was seen having lunch and drinks with Donnie Deutsch, who quoted Michael Cohen as stating that Giuliani doesn't know what he is talking about. Costello notes Cohen is clearly not telling the truth. Costello expresses concern that Cohen does not have the money to pay the legal fees and that "there are simply too many facts that he (Cohen) is not sharing with us to give (Costello) a level of comfort. Costello suggests that maybe Cohen will level with Citron because of their past relationship. Costello tells Citron that he has "a sense that we are being slow played" regarding the retainer agreement. Costello notes that Cohen "has not given us the facts." Citron replies with an email that he agrees and suggests we speak to Giuliani to see "what else could be out there."

## **THURSDAY-MAY 10, 2018 SUSPICIONS GROW ABOUT COHEN**

Costello sends Citron an email noting that Steve Ryan has opposed the Avenatti *pro haec vice* admission which Cohen certainly knew was coming, but failed to mention to us. Costello notes this is a bad sign and believes it might be emanating from Steve Ryan who might

feel threatened by our appearance. Costello speaks to Rudy Giuliani and asks Rudy to call Steve Ryan and set up a meeting to get us all on the same page.

#### **FRIDAY- MAY 11, 2018-NO RUSSIAN COLLUSION WITH COHEN**

Costello emails Cohen telling him his opinion about Mueller sending the Cohen case to the SDNY is a determination that there was no Russian collusion involving Cohen.

#### **TUESDAY-MAY 15, 2018- COHEN NOT TELLING THE TRUTH ABOUT PAYING LEGAL BILLS**

Costello sends an email to Citron stating Cohen has failed to respond to emails and text messages. Costello says Giuliani said that he and Jay Sekulow would be meeting with Steve Ryan of McDermott. Giuliani reveals that the Trump Organization, through an insurance policy, has been paying all of McDermott Will& Emery's bills. Michael Cohen has misled us that he was paying the bills when, in fact, Michael Cohen has paid none of the legal bills. Costello is concerned that we all need to get on the same page and stop Cohen from constantly complaining that Giuliani is screwing up without saying how he is screwing up. By getting on the same page we are not following Giuliani, we are agreeing with Giuliani or correcting Giuliani when we think it is necessary. Right now Cohen will think we are taking orders from Giuliani when all we are trying to accomplish is to get everyone on the same page with the truth. Cohen may think we are taking instructions from Giuliani whenever we agree with Giuliani's approach, but it is necessary that we know what everyone is doing and saying. Costello sends Cohen an email

stating that he strongly believed that Cohen was slow playing DHC and that we thought it was coming from the McDermott firm. That assumption turned out to be in error.

Cohen responds to the slow playing email with his own email at 1:43 pm in which he says: “As I have stated in the past, when the right time comes, and now is not the right time, we will advance our conversations regarding the issue” Cohen claims that he asked Costello to “reach out “ to Steve Ryan and adds “but under no circumstances do I want anyone communicating on my behalf with anyone else.” Essentially this is a non-response with claims never before made and contrary to all past behavior. Costello responds there was never any request to reach out to Steve Ryan and the idea of not communicating to anyone on his behalf is contrary to the entire prior month’s activity.

**WEDNESDAY-MAY 16, 2018 THE FIRST GOODBYE**

The next day Costello sends Cohen an email exhibiting his frustration with Cohen and stating that he will not pester Cohen, if Cohen wants to talk he knows how to reach Costello or Citron.

**WEDNESDAY - MAY 23, 2018**

One week later, Citron sends an email to Cohen suggesting a drink to enable Cohen to “bring us up to speed”.

**MEMORIAL DAY WEEKEND -FRIDAY MAY 25 THROUGH MONDAY MAY 28, 2018  
SUNDAY MAY 27, 2018**

**COHEN SEEKS COSTELLO’S ADVICE AND STATES HE IS ON THE TEAM**

On the Sunday afternoon of Memorial Day weekend, Michael Cohen calls Bob Costello’s cellphone while Costello is in Westhampton. Costello details the 1 hour and 36 minute

conversation to Jeff Citron upon his return to the office on Tuesday May 29, 2018. Cohen had been reading an article about his case and he called Costello to ask for his help in determining what the SDNY could be investigating regarding Cohen. Cohen said the article said the SDNY was investigating Cohen for “acts of concealment and bank fraud”.

Costello said we (DHC) were at a disadvantage because we were not signed up officially on the team. Cohen replied: “You are on the Team but to make an announcement now would generate a media storm.” Costello responded that DHC had to get the Retainer signed and Cohen said he understood that. Cohen said he was having a problem with some things that Rudy was saying, because Rudy didn’t know what he was talking about and Michael felt he was being hurt by Rudy trying to distance Trump from Cohen. Cohen said that Giuliani and Jay Sekulow did meet (with Ryan) and they do have a joint defense agreement, but they still were not on the same page. Costello told Cohen that he could put them all on the same page by having a meeting in New York with everyone, but that he could not do that without an official retainer. Cohen didn’t disagree or agree, he went around in circles. Clearly Cohen needed someone to talk to and he felt he could not talk to Steve Ryan.

Costello told Cohen that he was speculating, because we did not have the facts or the documents that the “acts of concealment’ could relate to misprision of felony. Costello said he would do some research the next day (still the holiday, Memorial Day). On the next day Costello called Cohen back and told him that he read the article that Cohen had read and that misprision of felony could be right. Costello talked to Cohen about the “bimbo eruptions” and the steps Cohen took to conceal those. Costello said the bank fraud could be false statements in opening the LLP account. Costello said if that was the case it would be a weak case. Costello told Cohen that he was “operating in the dark because he had not seen the documents nor been

told the true facts by Cohen. Costello said both of those steps had to be preceded by a signed retainer and Cohen said he knew that. ' Cohen again brought up the idea of meeting with Giuliani and Costello said he would only do that after a signed retainer.

### **WEDNESDAY -MAY 30, 2018-TRYING TO FIRM UP LEGAL RELATIONSHIP**

Costello sends Cohen an email that Citron wants to have a conversation in light of the Cohen-Costello Telephone conversations over the memorial day weekend.. Costello says they need to have a frank discussion.

### **THURSDAY-JUNE 7, 2018- COHEN SHOWING DISTRUST OF GIULIANI**

Cohen calls Costello and during the conversation Cohen argues with Costello that he (Costello) called Giuliani and Costello tells Cohen he is wrong and Costello will prove it to him by taking a snapshot of his phone records to prove that Giuliani, who was in Israel, called Costello. The discussion with Giuliani had to do with setting up a joint defense meeting.

### **FRIDAY -JUNE 8, 2018**

Costello sends a text to Giuliani of a tweet from Michael Cohen saying "Three things cannot be long hidden, the sun, the moon and the TRUTH". Costello then asks Rudy to confirm our meeting next Thursday or Friday. Giuliani responds; "Not yet, but will let you know possibly tomorrow. Costello then texts Cohen and tells him Giuliani's response.



## **MONDAY- JUNE 11, 2018**

Costello texts Giuliani at 11:46 am (EDT) asking if the G-7 and the Singapore Summit are slowing Giuliani's communication with the President and asks Giuliani to let him know whether they can meet Thursday or Friday so he can let Cohen know before Cohen meets with an unnamed lawyer.

## **TUESDAY-JUNE 12, 2018**

Costello texts Giuliani asking for a response. Costello sends Cohen an email link reporting Cohen has been telling friends he expects to be arrested. Cohen responds at 3:10pm telling Costello to call him. Following the call, Costello texts Giuliani that Cohen says there is no truth to the Vanity Fair story about being arrested. Giuliani responds that he hasn't talked to the President yet.

## **WEDNESDAY- JUNE 13, 2018- COHEN PARANOIA AND TOUGH GUY APPEAR**

Cohen exhibits paranoia by asking Costello if he (Costello) spoke to the press after the call of yesterday. The reference is to the resignation of McDermott Will & Emory. Costello says he has not spoken to the press and notes that he was told this would be announced on Friday June 15. Costello speculates that McDermott leaked it so it appears to be a resignation rather than a firing. Later that day at 3:22 pm, Costello sends an email to Cohen noting that Giuliani said he was meeting with the President that evening and that if there was anything he wanted to convey, now was the time. This was a reference to all of the vague complaints Cohen had been making without supplying any specific information. Reference is made to the fact that during an earlier phone call that day, Cohen had turned nasty on the phone and Costello told him he would give

him a pass just once because he was under stress, but that it better never happen again. Cohen apologized profusely. Before his outburst, Cohen had indicated that he was talking to someone in a boutique firm who was not ready to get involved.

**THURSDAY-JUNE 14, 2018 -EVIDENCE THAT COHEN IS STARTING TO TURN**

9:45 am- Costello sends Cohen a You Tube link of Giuliani discussing the possibility of Cohen cooperating with the statement: “Something you should see. Bob”.

10:22 am-Costello texts Giuliani to say that he sent the link to Cohen in the hopes that it will calm him down. Costello says Cohen needs a little loving and a respect booster because he is feeling abandoned. Costello notes that he is very uncertain about the DHC relationship with Cohen and asks if Giuliani knows the name of the other lawyer Michael is talking to,

11:21am-Cohen responds to Costello’s email sharing the link by responding “Since we are sharing this morning...they are again on a bad path.” The article references Giuliani comments. The article also revealed an email address that turned out to be Guy Petrillo.

12:27pm- Costello then sends a text to Giuliani telling him that the other lawyer Cohen has been talking to is Guy Petrillo.

12:38pm- Costello emails Citron that the other lawyer Cohen has been talking to is Guy Petrillo.

1:02pm- Citron emails Costello that we “Will send bill and sue for fees”

1:12pm- Costello responds to Cohen’s initial inquiry about why the video link was sent to him by telling Cohen to watch it for his answer, Costello tells Cohen that it seems clear to him

that Cohen is under the impression that Trump and Giuliani are trying to throw Cohen “under the bus” to use Cohen’s words.

Costello advises Cohen that whatever he does in the future, flying off the handle only plays into his adversary’s hand. Costello says if you really think you are not being supported by your former boss, you should make your position known. If you want things to happen, you should make your position known. If you want lawyers to refrain from saying certain things, you should make it known, Cohen is told he has the ability to make that communication but whether he exercises it is totally up to him. This email was a response to all the vague complaints that were made by Cohen-always with no specificity.

#### **COSTELLO TELLS CITRON -LIKELY END OF COHEN REPRESENTATION**

At 5:33 pm that night, Costello tells Citron in an email that the message he had just sent to Cohen was likely going to be his last conversation or written exchange with Cohen. At 11:21 pm Citron responds that Costello should call Cohen tomorrow.

#### **FRIDAY -JUNE 15, 2018**

Costello texts Giuliani information he researched on Guy Petrillo and Jim Comey.

#### **MONDAY-JUNE 18, 2018**

Costello texts Giuliani more information on the connections among Petrillo, Comey, Patrick Fitzgerald and David Kelley.

**TUESDAY- JUNE 19, 2018-COHEN REACHES OUT -TELLS COSTELLO- PETRILLO  
RETAINED, BUT COSTELLO STILL ON TEAM, AS ONE OF THE FEW PEOPLE  
THAT COHEN TRUSTS**

From 5:51pm to 6:22 pm -Michael Cohen calls Bob Costello on his cellphone, while Costello is still in the office. Costello has to leave by 6:30 to make the 7:01 train from Penn Station. At 7:10 pm while travelling home on the LIRR, Costello sends an email to Citron detailing the call he had received from Cohen.

“Around 6:10 tonight I received a call from Michael. Very friendly-we did the usual chit chat and then I asked why he was calling. He told me there were reports all over the internet that he had chosen a new attorney. I said I didn’t know that and then looked on CNN and Fox News sites and told him there was no story. He said it’s all over TV. I said okay who is it and he said Guy Petrillo and he knows who leaked it.

So I then said what is this your goodbye call to me and he said absolutely not. I have been consulting with you for almost two months. There are very few people I trust but you are one of them. I said I could not keep the arrangement the way it has been with one toe in the water. He said I want more than one attorney. I want you at the table. You have been giving me great advice and I want it to continue. I said we have to reach an arrangement and he would have to speak to you (Citron) and work out the details. He said he will call you Jeff on your cellphone tomorrow morning.

He asked me to communicate with Rudy and have him tell the President that all of these stories about cooperating are bullshit. To tell him that he is not talking to any reporters. He is not talking to an(y) friends. These stories from sources are fiction.

I believe the real issue for Cohen is money. Who is going to pay for these lawyers. He (Cohen) said he was working on a few things but he did not say what. There are more details I will tell you when we speak. I am speaking to Rudy at 8 when I get off the LIRR. I will call you after that.

After exiting the train, Costello called Giuliani and Citron and told them the substance of the Michael Cohen phone call.

11:04pm- Costello sends Citron a link to a story in “The Hill” that “Cohen tells associates legal fees bankrupting him-wants Trump to pay”

## **WEDNESDAY-JUNE 20, 2018**

10:41 am-Costello sends Cohen a NY Times link about his hiring of Petrillo. Costello notes that exactly like him, Petrillo was consulting with Cohen for weeks, before he was “officially retained.” Costello notes that is exactly the same position he was in and suggests that Cohen told that to the NY Times.

2:53pm- Costello sends Citron links that say Cohen wants Trump to pay his legal bills and Cohen getting desperate President Trump should be worried.

7:06pm- Costello sends email to Citron- no call from Cohen by 7pm-not a good sign.

## **THE TOM ARNOLD INCIDENT-**

## **FRIDAY JUNE 22, 2018**

At 1:26 pm, Costello is having lunch with a friend at Bobby Van’s Restaurant when he receives a call from Rudy Giuliani. Giuliani asks Costello if he knows about the Tom Arnold incident. Costello says no and Giuliani says I will send you a link. Giuliani tells Costello that the President does not know what to make of this story and wants Costello to contact Cohen to find out what is going on because the story sounds crazy to the President.

2:46pm- Costello sends an email to Citron, telling him about the Tom Arnold incident where Arnold claimed that: “Me and Michael Cohen are going to bring Trump down”. Costello explains to Citron that he had explained to Rudy what DHC’s position was with Cohen and that Cohen was supposed to call us back on the 20<sup>th</sup> but had not. Based on the stories on the internet, Rudy asked us to find out if Cohen is asking for legal fees to be paid because Giuliani said: “as

far as I know, we did negotiate a discount with McDermott Will and Steve Ryan, but Michael doesn't owe any legal fees."

Costello wants Citron's input quickly "because Rudy and you know who are waiting for a reply."

2:55pm- Costello texts Cohen and says: "Tom Arnold's story in [www.thehill.com](http://www.thehill.com) has drawn the attention of my friends. They did not see Arnold's later clarification. They asked me to contact you and have a chat about a few matters. Call me when you can on the cell or in my office at 646-428-3238"

5:26pm- Costello sends a text to Rudy Giuliani which reads: "Rudy- I sent Michael a detailed text at 2:56 and I called his cell at 4:09pm. When/if I hear from him I will let you know. I suppose you saw the retraction issued by Tom Arnold and Michael thanking him for "correcting" the record."

9:56 pm- Cohen texts Costello: "Finished document review and then met with counsel. Arrived home at 8:30 and just took wife to get dinner. Let's speak tomorrow."

Costello (who was playing in a golf tournament the next day) responds; "Let's talk after noon. Make sure you see Tom Arnold on CNN. You can likely see it on YouTube." Cohen replies: "I did. Did you see my tweet?"

Cohen then sent Costello a series of Tweet messages between himself and Tom Arnold. Costello texts Giuliani and tells him that Tom Arnold admits his claims are lies. Costello tells Giuliani: "Make sure your client knows this. He will sleep better. I will follow up tomorrow afternoon."

## **SATURDAY AFTERNOON- JUNE 23, 2018**

4:48pm- Cohen calls Costello and explains that the Tom Arnold incident is all created by Tom Arnold to promote some TV series that Arnold was trying to sell to the networks. Cohen is very agitated on the phone that Tom Arnold just made everything up. Cohen is very concerned about the claim that his wife said: "F...k Trump" Cohen says his wife was never there and Cohen puts his son on the phone with Costello to corroborate that his mother was not with them, she was upstairs in the suite. Cohen makes it a point to say you need to meet with Giuliani and explain all this so he can tell the President. Cohen says that he will send Costello all of the tweet and text messages between himself and Tom Arnold that will show that Arnold was lying about everything. Costello says send them and he will meet with Giuliani. Cohen then goes into a long and rambling discourse on a number of subjects that he wants conveyed to Giuliani. Costello writes a memo to the file.

8:28 pm- Costello texts Rudy Giuliani and asks for an email address "that I can use to send you a detailed report of my 90 minute discussion with Michael about a wide variety of subjects. I have been asked to pass these Cohen thoughts along." Giuliani replies with an email address.

## **THURSDAY - JUNE 28, 2018 - COSTELLO AND GIULIANI MEET FOR LUNCH**

Having decided not to email the memorandum, Costello brings it with him when he meets Giuliani in the Havana Club at the top of 666 Fifth Avenue. Costello and Giuliani have lunch by themselves while Giuliani's two assistants are having lunch at another table. Costello explains to Giuliani that Cohen's phone conversations are rambling and that he often skips from one topic to another and then back to the original topic so in order to make sense of all of his remarks Costello put them in a memo. Cohen asked Costello to meet with Giuliani and convey all of the

thoughts contained in the memo. Costello then read the memo to Giuliani while Rudy ate. Rudy would occasionally interject follow up questions to statements contained in the memo.

4:46 pm-Costello emails Cohen to say that he spoke to Giuliani about why they haven't brought an action to challenge Mueller his investigation and the Michael Cohen referral. Additional commentary about tom Arnold continuing to make false statements about Cohen

### **MONDAY JULY 2, 2018- COHEN APPEARS ON GOOD MORNING AMERICA**

9:23 am Giuliani texts Costello: "Any insight on Cohen"

10:29- Costello emails Giuliani a link to the Cohen/ Stephanopolous interview.

10:42 Costello texts Giuliani saying: " I would not be surprised to find out that Lanny Davis is proceeding pro se or that someone else is funding Davis, like Clinton, Soros etc. Check with the D &O policy people, to see if a claim is being submitted on behalf of Cohen."(Cohen had indicated he was going to submit such a claim for Petrillo and wanted Trump to not oppose it.)

### **THURSDAY-JULY 5, 2018 - COHEN OFFICIALLY ANNOUNCES HIRING LANNY DAVIS**

11:07 pm -Costello sends Giuliani an email with NY Post link "Cohen hires Clinton Pal as his lawyer amid legal troubles" with a comment: "Looks like this seals the deal. The Comey-Clinton Team"

### **FRIDAY-JULY6, 2018**

12:13pm- Costello sends Cohen an email:



“With the recent announcement by Lannie Davis, it is clear to us that you have chosen a different path. You have **consulted** with us since shortly after April 9<sup>th</sup> (17). While you continuously stated we were part of the team, recent events have made it clear that you were consulting with several different counsels.

With the public pronouncements of the team you have selected, you have clearly signaled the path you will take. We will not be involved in that journey and therefore Jeff Citron asked me to let you know that he will be sending you a bill for services rendered.

I hope you make some smart choices.”

12:19 pm - Citron sent an email to Cohen:

“Michael, it appears we have been excluded from your TEAM as we have been totally in the dark as per recent developments. Obviously, we cannot advise if we do not know all the facts or your real thinking. Again, we wish you the best and hope that your new defense team, if needed, will get you the best outcome.”

## **DHC SENDS COHEN A BILL FOR SERVICES RENDERED-COHEN RESPONDS WITH FALSE STATEMENTS TO AVOID PAYING**

**TUESDAY -JULY 17, 2018**

2:47 PM- After receiving a legal bill, Cohen sends an email to the DHC Accounts Receivable Manager with a cc to Citron and Costello stating:

“ Jeff and Bob.

At no time were you retained and any actions taken by Bob were all pursuant to calls he made me. There will be no payment made to your firm.”

3:55pm-Costello responds:

“Michael- this is an unfortunate reply because it simply is not true. Costello then gives factual proof that Cohen’s statements are untrue. Costello adds: “I understand the pressure, but I will not allow you to make up false statements about the firm’s relationship with you.”

4:12pm- Cohen responds with more false claims:

“I told you from day one that the ultimate decision would be Guy Petrillo and that I was not in a position to take on additional counsel. Hence why I never signed a retainer.

As to Rudy, I disagree with your interpretation and also have the text messages and e-mails. I ask that you cease sending me these communications.”

5:01 pm -Costello emails Cohen:

“Your statement about Guy Petrillo is not accurate. You never mentioned Guy Petrillo’s name until you called me after it was publicly announced that you had retained Petrillo. You never stated that you were not in position to take on additional counsel, in fact, when you called me to say that Petrillo was retained I joked and asked you if this was your good-bye call, your version of a “Dear John Letter” and your response was absolutely not. I often wrote memos to the file or memos to Jeff Citron memorializing our conversations particularly with respect to “our being on the team” which was your phraseology, not mine. The only correct statement you made is that you did not sign a retainer, but that does not mean that you did not incur a quantum meruit obligation. You likely recall that I specifically asked you if you were simply “slow playing” us and you denied that.

Your quote: “As to Rudy, I disagree with your interpretation” is confusing. There is nothing to disagree about. You specifically authorized me to contact Rudy on your behalf. The words “specifically authorized” were mine- a direct quote. Read the emails and text messages and you will see I am right, I will cease sending you any communications provided you cease make(ing) false statements in your communications to us.

You can take the position that you will not pay and then this firm will do what it has to do.”

7:00pm -Cohen responds:

“This is my last and final communication to you. You are just wrong in your depiction. Plain and simple. So as you wish.”

## **COHEN INVENTS THE “SELLING RUDY” NARRATIVE**

8:59 pm- Cohen sends another last and final message:

“Jeff,

This is the last time I will discuss this. You both came to me with the prospect of representing me and because of Bob’s relationship to Rudy. I was very clear that I am not in a position to take on multiple attorneys and did not engage your firm when you took out the retainer agreement. Bob continued to call me with advice and thoughts...which I appreciated. as you also recall, I refused to provide the name of the attorney who was going to lead and handle the matter for me, but, if he agreed, we would resume conversation of your firm joining the team. Mr. Petrillo did not believe it would be a good fit and I advised you accordingly. End. Period.”

**WEDNESDAY- JULY 18, 2018**

9:03 am - Costello emails Citron: "We cannot let the false statements stand. Let's talk later this morning."

1:02 pm - Costello emails Cohen:

"Michael,

Jeff asked me to respond to your latest email to him with a copy to me. Unfortunately you persist in making claims that are simply not true and therefore you force me to address them.

Initially, Jeff reached out to you to see if we could be of help. Then at your written request, Jeff and I met you at the Regency Hotel in a conference room. That was our initial meeting and we did not charge you for that time. Additionally you came to our offices at 605 Third Avenue and met with both of us in the conference room on the 15th Floor.

The initial meeting was not brought about because of my relationship to Rudy, but rather because I had been Deputy Chief of the Criminal Division of the office that was investigating you. Rudy Giuliani was not even representing Donald Trump at that time. Giuliani only began to represent Trump on April 19th or ten days after the execution of the search warrant. It was after that time that I disclosed to you that I had a long standing relationship with Rudy that could only inure to your benefit.

Your claim that you were "very clear that (you were) not in a position to take on multiple attorneys" is not only untrue but is borne out by the fact that you now are represented by Guy Petrillo's firm in New York and Lanny Davis in Washington D.C. You consistently said you were forming a team and that we were part of the team, but you did not identify the other lawyer that you were also consulting.

The claim that "Bob continued to call me" is also misleading. You continued to solicit advice and continued to express the need to convey to the President that the media reporting of your cooperation was untrue. Your language was actually much more explicit. I was not the one who initiated the call to my cell phone while I was in Westhampton on Sunday, May 27, 2018. In that hour and forty five minute discussion, you solicited advice on a number of subjects but one of which will certainly stand out in your memory. You were trying to figure out what the US Attorney could be thinking of charging you with because they had referred to "acts of concealment" in legal papers they had filed. Our records will show you that in addition to the Sunday discussion, I followed up on Monday and sent you additional information.

Then there was your Tom Arnold fiasco. You wanted to convey to the President that basically everything Tom Arnold said was a lie and you even sent me the text messages between you and Tom Arnold which proved your point because you wanted that conveyed to the President. I did what you asked.

As to your claim that you “refused to provide the name of the attorney who was going to lead”, that is only partially true. You did mention that you were also consulting with another attorney and you did not provide us with the name. Likewise you informed us that you had not told that other attorney our name. You continuously said you were setting up a team; you never said the other attorney was the lead; you consistently stated that you wanted to have more than one lawyer at the table, as you phrased it, and you continuously said we were “on the team.”

Your statement “if he (Petrillo) agreed, we would resume conversation of your firm joining the team. Mr. Petrillo did not believe it would be a good fit and I advised you accordingly” is stunningly untrue. Petrillo’s name was never revealed to me until his retention was publicly announced and then on June 19, 2018 when you called me at 6:10pm in the office to discuss the media story. I wrote a memo to Jeff about our conversation as soon as I hung up the phone with you. That memo reads in pertinent part:

“Around 6:10 tonight I received a call from Michael. Very friendly-we did the usual chit chat and then I asked why he was calling. He told me there were reports all over the internet that he had chosen a new attorney. I said I didn’t know that and then looked on CNN and Fox News sites and told him there was no story. He said it’s all over TV. I said okay who is it and he said Guy Petrillo and he knows who leaked it.

So I then said what is this your goodbye call to me and he said absolutely not. I have been consulting with you for almost two months. There are very few people I trust but you are one of them. I said I could not keep the arrangement the way it has been with one toe in the water. He said I want more than one attorney. I want you at the table. You have been giving me great advice and I want it to continue. I said that we have to reach an arrangement and that he would have to speak to you (Jeff Citron) and work out the details. He said he will call you Jeff on your cellphone tomorrow morning.

He asked me to communicate with Rudy and have him tell the President that all of these stories about cooperating are bullshit. To tell him that he is not talking to any reporters. He is not talking to any friends. These stories from sources are fiction.”

We have always been here to assist you but you have now clearly chosen a different path. It is your right to move on and make any decisions you wish without regard to whether we think they do not serve your own interests, but you need to pay for our services.

We are aware that your McDermott Will & Emery bills were not paid by you but were paid by third parties. Your recent claim that you cannot pay for more than one lawyer is belied by your hiring Lanny Davis after you had already retained Guy Petrillo. You are simply contradicting yourself to try to avoid a clear obligation. It should be clear to you by now that we will not allow you to put any false information in the record, so do the right thing and pay your bill and move on with your life on the path you have now chosen.”

1:43 pm - Cohen emails Costello:

Bob,

Your recollection is extremely inaccurate and self serving. I will not waste either of our time refuting what you already know is disingenuous; specifically your peddling of your relationship with Rudy as a “back door” channel to the WH... something I told you I did not want or need. Any further questions, comments or concerns, I ask you to contact Mr. Petrillo. Thank you.

2:23 pm - Costello emails Cohen:

Faced with the fact that Giuliani was not representing Trump when we first met Cohen, he continues to lie to suit his own purposes. Undoubtedly he will do that in the future with respect to Trump and his associates.

**WEDNESDAY- AUGUST 8, 2018**

9:15 am - Cohen emails Batista/Citron/Costello:

Gentlemen,

Please cease contacting me as you do not and have never represented me in this or any matter. Your interest and offers to become a part of the team and to serve as a contact was subject to existing counsel, Guy Petrillo’s (cc’d) approval; which was denied.

2:14 pm - Costello emails Citron:

What should be done with this guy. He keeps on making false statements:

“Your interest and offers to become part of the team and to serve as a contact was subject to existing counsel, Guy Petrillo’s (cc’d) approval; which was denied.” This statement is false in the following ways: 1. We didn’t offer to become “part of the team”- Michael Cohen said numerous times we were part of the team; 2. When you and I first met with Michael at the Regency, Rudy Giuliani was not yet representing Trump-that came later; 3. When Giuliani announced he was representing Trump, I had a conversation with Michael in which he sated he would be “honored” to have us part of his team and I requested and he gave me specific authority to reach out to Rudy Giuliani and to tell him that we were part of the team representing Michael Cohen; 4. Guy Petrillo’s name was never mentioned to me until it was publicly announced that he was representing Cohen; 5. He says that Petrillo is “cc’d” on the email to us, but he is not; 5. There was never any discussion that any other counsel had approval authority over us or that any other counsel was going to be lead counsel in fact Michael told us in the 15<sup>th</sup> Floor Conference room that he wanted me on TV defending his position.

Do we let the false statements stand unchallenged or do we challenge them and tell him that if he wants to not hear from us he should simply pay the bill but that if he refuses and does not pay the bill we will bring an arbitration against him? Obviously this is your call.

10:55 pm - Costello emails Cohen:

Michael,

If you want to stop the contact then you should stop making these self serving claims that are contrary to the facts. Your statement below is littered with false claims and I told you I would not allow you to make these false claims unchallenged. It was you that told us we were on the team on multiple occasions. We were giving you advice before Giuliani was representing Trump. You never mentioned Petrillo's name until you called me to say it was all over the internet. You told me that you never mentioned my name to Petrillo in that same conversation- was that a lie? We did not offer to serve as a contact but when Giuliani began to represent Trump I told you I had a great history with him and you specifically authorized me to contact him. There was never any discussion about Guy Petrillo in any way until you called me.

Let's stop this back and forth. You have two choices. You can pay your bill or not. If you do not, I am sure Jeff Citron and the Firm will take whatever steps are necessary.

### **WEDNESDAY- AUGUST 22, 2018**

9:49 am - Costello emails Citron:

<https://www.justice.gov/usao-sdny/pr/michael-cohen-pleads-guilty-manhattan-federal-court-eight-counts-including-criminal-tax>

11:17 am - Costello emails Citron:

<https://www.gofundme.com/hqjupj-michael-cohen-truth-fund>

This is priceless-Bob Costello

<https://www.cnn.com/videos/politics/2018/08/22/lanny-davis-michael-cohen-trump-russia-hacking-new-day-vpx.cnn>

### **TUESDAY- DECEMBER 4, 2018**

2:04 pm - Costello emails Citron:

<https://www.cnn.com/videos/politics/2018/08/22/lanny-davis-michael-cohen-trump-russia-hacking-new-day-vpx.cnn>

This Lanny Davis is totally full of shit. This is contrary to what Michael Cohen told me that he had nothing on The President.