

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SARAH PALIN, an individual,

Plaintiff,

– against –

THE NEW YORK TIMES COMPANY,  
a New York corporation, and JAMES  
BENNET, an individual,

Defendant.

No. 17 Civ. 4853

Hon. Jed S. Rakoff

ECF Case

**PLAINTIFF’S MEMORANDUM OF LAW  
IN SUPPORT OF MOTION IN LIMINE**

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**TABLE OF CONTENTS**

Table of Contents .....	i
Table of Authorities .....	ii
Argument .....	1
Certificate of Service .....	3

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>CASES</b>	
<i>U.S. v. Brockington</i> , 849 F.2d 872 (4th Cir. 1988).....	2
<i>U.S. v. Filippi</i> , 172 F.3d 864 (4th Cir. 1999).....	2
<i>U.S. v. Millan</i> , 817 F.Supp. 1068 (S.D.N.Y. 1993) .....	2
<i>U.S. v. Sloan</i> , 36 F.3d 386 (4th Cir. 1994).....	2

	<b>Page(s)</b>
<b>OTHER</b>	
Federal Rule of Evidence 103(d) .....	1
Federal Rule of Evidence 104.....	1
Federal Rule of Evidence 105.....	1
Federal Rules of Evidence 401-402.....	1
Federal Rule of Evidence 403.....	1
Federal Rule of Evidence 404.....	1
Federal Rule of Evidence 405.....	1
Federal Rule of Evidence 608.....	1
Federal Rules of Evidence 801-805.....	1
<i>Manual for Complex Litigation, Second</i> § 22.21 (1985) .....	2

**ARGUMENT**

Plaintiff, Sarah Palin (“Gov. Palin”), by and through her undersigned counsel, moves for the entry of an order precluding Defendants, The New York Times Company and James Bennet, from using, disclosing, discussing, and/or describing the contents of their proposed Trial Exhibits listed on **Exhibit A**, to which Gov. Palin will be asserting objections on January 17, 2022, in accordance with the Court’s *Individual Rules of Practice*, during jury selection, opening statements, witness examinations and cross-examinations, and at any other time in the presence of the jury without first obtaining a ruling from the Court on the admissibility of such exhibits.

In their Rule 26(a)(3) Pretrial Disclosures, Defendants identified numerous potential trial exhibits (such as news articles and reports about and videos of Plaintiff) that are objectionable on various grounds, including without limitation: relevancy (Rules 401-402); unfair prejudice and confusion (Rule 403); improper character evidence (Rules 404, 405, 608); and hearsay (Rules 801-805). There may be instances in which these exhibits are excluded from trial, and instances where some of these exhibits are admitted over objection but limiting instructions are necessary and appropriate under *Federal Rule of Evidence* 105 before the jury is exposed to them.

On January 17, 2022, in accordance with Rule 4 of the Court’s *Individual Rules of Practice*, Gov. Palin will be asserting her particularized objections to (among others) each of the proposed exhibits listed in **Exhibit A**. However, due to the number of objectionable exhibits and limited amount of time available before trial, it is unlikely their admissibility will be determined in advance of trial.

*Federal Rule of Evidence* 103(d) provides that “[t]o the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.” *Federal Rule of Evidence* 104 permits courts to make rulings limiting the discussion of certain

matters during jury selection, opening statements, and at trial. See e.g., *U.S. v. Brockington*, 849 F.2d 872, 874–75 (4th Cir. 1988)) (order precluding the mentioning of contested exhibits during opening statements was appropriate”); *U.S. v. Millan*, 817 F.Supp. 1086, 1088 (S.D.N.Y. 1993); *U.S. v. Filippi*, 172 F.3d 864 at \*6 (4th Cir. 1999) (citing *U.S. v. Sloan*, 36 F.3d 386, 397–99 (4th Cir. 1994); see also *Manual for Complex Litigation, Second* § 22.21 at 129 (1985).

Given the various grounds upon which Gov. Palin anticipates objecting to the proposed trial exhibits listed in **Exhibit A** and the unfair prejudice and confusion that could result if the jury is exposed to them before their admissibility is determined, Gov. Palin seeks the entry of an order precluding Defendants from using, disclosing, discussing, and/or describing the contents of the proposed trial exhibits listed on **Exhibit A** without first obtaining a ruling from the Court that such materials are admissible.

WHEREFORE, Plaintiff, Sarah Palin, respectfully requests that this Court enter an order precluding Defendants from using, disclosing, discussing, and/or describing the contents of their proposed trial exhibits listed on **Exhibit A** without first obtaining a ruling from the Court that such materials are admissible, including without limitation during jury selection, opening statements, witness examinations and cross-examinations, and at any other time in the presence of the jury; as well as granting such further relief as the Court deems just and proper.

Dated: January 10, 2022.

/s/ Shane B. Vogt  
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**CERTIFICATE OF SERVICE**

I hereby certify that Plaintiff's Memorandum of Law in Support of Plaintiff's Motion in Limine was filed electronically on January 10, 2022. This Notice will be sent by operation of the Court's electronic filing system to counsel of record for all parties as indicated on the electronic filing receipt. Parties and their counsel may access this filing through the Court's system.

*/s/ Shane B. Vogt* \_\_\_\_\_

Attorney

## **EXHIBIT A**

**Defendant's Proposed Trial Exhibits**

Defendant Trial Exhibit No.	Date	Description
77	6/14/2017	Rep. Rodney Davis on Politically-Motived Violence
78	6/15/2017	Palin Article: Palin Investigates Legal Options Following New York Times' Fake News
79	10/5/2018	Palin Tweet: Hey Lisa Murkowski - I can see 2022 from my house...
80	9/23/2020	Palin Video: Lisa Murkowski - I can 2022 from my House
81	3/11/2020	Masked Singer Video - Reveal
82	12/12/2016	1 Quote from NYT's Editor about Christians Tells You Everything You Need To Know . . .
83	2/14/2017	NYT Reporter Calls Melania "A Hooker," Instantly Two Things Happen
84	3/2/2017	NYT Just Slammed Trump For Something They IGNORED Under Obama For 8 Years
85	3/26/2017	The NY Times Just Dropped a BOMBSHELL Concession About MSNBC And The Liberal Media
86	4/19/2017	NYT Publishes Articles From Convicted Terrorist...But It Gets WORSE
87	4/22/2017	NYT Editor Calls Himself THIS For Misleading Tweet
88	4/26/2017	FINALLY! NYT Reporter Posts Misleading Tweet On Trump . . .
89		Masked Singer Video - Dancing and Rapping
90	7/22/2021	Zillow: Sarah Palin most desirable celebrity neighbor: poll
92	4/20/2020	Palin Responses to Requests for Admission
94	5/14/2020	Palin Am. Response to Request for Admission - RFA 27
95	6/14/2017	Email: Recher to Knorr re "This is great and I think it would be good for tomorrow"
97	6/17/2017	Elizabeth Williamson: Another, Far Different, Washington Billionaire



<b>103</b>	7/27/2017	New York Post: Sarah Palin sues NY Times
<b>104</b>	6/15/2017	Business Insider: New York Times corrects editorial that drew huge backlash for blaming Sarah Palin
<b>105</b>	8/29/2017	Forbes: Sarah Palin's Defamation Suit Against the New York Times is Dismissed
<b>106</b>	8/21/2019	Washington Post: New York Times lawyer on Palin editorial: 'It was an honest mistake'
<b>109</b>	1/26/2016	Washington Post: The GOP Contest
<b>110</b>		About SarahPalin.com
<b>112</b>	9/3/2008	WSJ: Palin Candidacy Exposes Divisions Among Women
<b>114</b>	1/30/2016	A Chance to Reset the Republican Race
<b>116</b>		Palin Facebook Page
<b>117</b>		Palin Twitter Page
<b>118</b>		Sarahpalin.com
<b>121</b>		Turning Point USA: America Fest 2021 Speakers
<b>122</b>		Turning Point USA: Palin Bio
<b>124</b>	7/29/2014	Video - WSJ: Sarah Palin Launches Her Own Subscription Channel
<b>125</b>		Sarahpalin.com - Online Store
<b>130</b>		Palin Instagram Account
<b>131*</b>	1/31/2011	The Dish (Andrew Sullivan Blog): Guarding Their Heritage
<b>200</b>	1/6/2021	Palin Fox News re Capital Insurrection
<b>201</b>	2021	Palin Video: American Prosperity Summit
<b>202</b>	6/10/2021	Confirmed Speakers: Young Women's Leadership Summit
<b>203</b>	11/18/2009	Politico: Palin Trashes "Lamestream Media"
<b>204</b>	6/17/2016	Palin: Obama "is a special kind of stupid"
<b>206</b>	6/25/2009	Miami Herald: Palin popular among Republicans but polarizing according to poll
<b>207</b>	9/4/2008	Politico: Media swoon over Palin's fiery speech

<b>208</b>	8/20/2020	Steve Schmidt: "paranoia, pathological lying, profound ignorance, brittleness and insanity"
<b>209</b>	10/5/2011	Palin Will Not Seek Presidential Nomination
<b>210</b>		Washington Post: Seven Years Ago Palin Gave the Best Speech of Her Life
<b>211</b>	11/6/2015	Sarah Palin Evolves on Katie Couric
<b>212</b>	10/21/2008	RNC Shells Out \$150k for Palin Fashion
<b>213</b>	4/26/2010	CBS News: Did Sarah Palin Resign as Governor Because of Money
<b>214</b>	7/4/2009	Los Angeles Times: Sarah Palin's Resignation as Alaska Governor sets off speculation
<b>215</b>	1/13/2010	Steve Schmidt's war against Palin
<b>216</b>		Going Rogue
<b>217</b>		America By Heart
<b>218</b>		Sarah Palin Uncut
<b>219</b>		Good Tidings and Great Joy
<b>220</b>		Sweet Freedom: A Devotional
<b>221</b>		Sarah Palin: You Betcha!
<b>222</b>	1/12/2011	Palin Statement re Blood Libel
<b>223</b>	1/12/2011	Reuters: Palin's "Blood Libel" Charge Ignites Firestorm
<b>224</b>	1/12/2011	Salon: Sarah Palin Re-Inserts Herself in the News Cycle
<b>225</b>	10/7/2010	60 Minutes: Steve Schmidt Article
<b>226</b>	10/9/2008	NBC News: Legislative Report re Palin Firing Public Safety Commissioner
<b>227</b>	10/10/2008	Legislative Report
<b>228</b>	7/4/2009	Business Insider: Sarah Palin: Quitter
<b>229</b>	4/19/2017	Palin Facebook Post - Hilary Clinton
<b>230</b>	8/19/2020	Palin: "I wouldn't prostitute myself . . . ."
<b>231</b>	7/29/2014	Palin Channel Promo