

# With Criminal Trial Approaching, Harvey Weinstein Seeks Stay of Federal Civil Suits

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By Colby Hamilton | January 08, 2019 at 04:47 PM

As former Hollywood producer Harvey Weinstein prepares for his early May criminal trial date in Manhattan state court, attorneys working on federal civil suits whose venues stretch from New York to Los Angeles are asking courts to stay those matters pending the outcome of the criminal case, a spokesman for Weinstein confirmed.

Papers have already been filed in a number of the suits in the U.S. District Court for the Southern District of New York. Likewise, the same request was filed in the action brought by actress Ashley Judd in Los Angeles federal court.

In each, attorneys for Weinstein argue that the stay is necessary, given Weinstein's pending trial, to "safeguard his Fifth Amendment right against self-incrimination."

The initial stay request was made while Weinstein had a pending motion to dismiss pending the state criminal charges against him. In December, Manhattan Supreme Court Justice James Burke refused to dismiss the suit. Weinstein's attorney, Benjamin Brafman, had argued that prosecutors failed to present a range of exculpatory evidence to the grand jury, including evidence that Weinstein had engaged in a long-term consensual relationship with an alleged victim.

"The court's review of the grand jury minutes shows that the presentation was legally and procedurally proper, and that the people presented evidence in a fair manner," Burke wrote in a six-page order. "Nor did the people provide a misleading account of the relationship between the defendant and the complainants."

Now that the "landscape has ... changed drastically" and the criminal trial is set to begin May 6, "the interests of justice compel that plaintiff's claims" in the federal civil matters "be stayed in the months prior to that trial commencing."

"It would be an undue and unjust burden to force Mr. Weinstein to put his constitutional rights against self-incrimination at risk in a litigation arising from allegations that parallel the allegations of sexual misconduct brought by the [Manhattan District Attorney's Office] just months before his trial," Weinstein's private attorney Elinor Shiloh wrote in language echoed in briefs filed in multiple suits.

Shiloh went on to claim Weinstein would be "severely prejudiced" if he was forced to expend resources defending himself in "a myriad of civil claims" while preparing for the criminal trial in Manhattan.

"Mr. Weinstein will be severely prejudiced if he is forced to expend personal energy and

resources defending a myriad of civil claims while trying to prepare for his criminal trial,” Shiloh stated, adding that, “Mr. Weinstein’s liberty interests, constitutional rights, and the need for a fair criminal trial take precedence over” the plaintiffs in the federal civil suits brought against him.

Attorneys representing various plaintiffs in the suits that responded to requests for comment took a clear stance in opposition to Weinstein’s stay requests.

Gibson, Dunn & Crutcher partner Theodore Boutrous Jr. represents Judd in *Judd v. Weinstein*. He called the stay request “a baseless delay tactic.”

“There is no basis to stay Ms. Judd’s civil claims against Mr. Weinstein. She is suing him for the damage he caused to her career when he maliciously lied about her to other filmmakers,” Boutrous said. “He cannot silence witnesses to his defamation against Ms. Judd just because he allegedly sexually assaulted several women years later.”

In New York, Weinstein argued for a stay in *Doe v. The Weinstein Co.* over objections from the plaintiff that the criminal matter and her civil suit do not overlap. Shiloh argued in Weinstein’s most recent brief that the plaintiff’s argument “advances an overly narrow concept of overlap,” Shiloh wrote.

“Plaintiff seeks to hold Mr. Weinstein civilly liable for sexually assaulting and raping her. Mr. Weinstein is currently under criminal prosecution for the same acts allegedly committed against other women. The overlap between this matter and the ongoing criminal prosecution is undeniable,” Shiloh said.

In a statement, Wigdor LLP name attorney Douglas Wigdor painted Weinstein’s broader civil legal efforts as advanced to the point of diluting any argument for a stay.

“Given that our client does not have a parallel criminal proceeding, that Weinstein has already answered the complaint without invoking the Fifth Amendment, and that Weinstein has actively pursued discovery in the bankruptcy proceedings, we are confident that the court will find that no extraordinary circumstances exist that would warrant a finding of substantial prejudice absent a stay,” Wigdor said.

Weinstein is next scheduled to appear for a March 7 pretrial hearing in the criminal proceeding in Manhattan.

*Additional reporting by Tom McParland.*