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The Daily Docket

Reuters

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Good morning. The judge overseeing the criminal case accusing former President Donald Trump of mishandling classified documents [has been fairly receptive](#) to his arguments, a sign that prosecutors might face a tough road ahead. Plus, [a federal judge takes the unusual step](#) of doing an interview to speak out against threats, a Texas court [blocks the state from investigating transgender kids' parents](#), and we've got your calendar for the week ahead. Welcome to April!

[US judge receptive to Trump documents claims](#)

A federal judge overseeing the criminal case that accuses Donald Trump of mishandling classified documents has signaled an openness to the former U.S. president's defense claims, in a sign that prosecutors might face a difficult road ahead, [reports Andrew Goudsward](#).

U.S. District Judge Aileen Cannon, who was nominated to the bench by Trump, has asked Trump and prosecutors to propose jury instructions based on two legal scenarios that favor a claim from Trump that national security lawyers said have little relevance to the charges. Trump and Special Counsel Jack Smith, who brought the case, face a Tuesday deadline to respond to the judge's order.

At issue in Cannon's recent order is a claim from Trump, who has pleaded not guilty, that he treated the documents as personal under a 1978 law that allows former presidents to keep records with no connection to their official responsibilities. Prosecutors have said the documents could not be construed as personal because they relate to U.S. intelligence and military matters. The records law could not authorize Trump to keep classified papers, they said.

Experts told Goudsward that if Cannon OKs the jury instructions at issue it would be a win for Trump. Allowing a jury to consider those claims would "give Trump a fighting chance in a jury trial that would never likely exist in another case," defense attorney Mark Zaid said.

[More top news](#)

- [Texas federal court will not adopt policy against 'judge shopping'](#)
- [Meta cannot delay US FTC from reopening privacy probe, court says](#)
- [Texas appeals court blocks state from probing transgender kids' parents](#)

[The buzz](#)

- Donald Trump [asked a Georgia appeals court](#) to disqualify the district attorney prosecuting him for trying to overturn his 2020 election defeat in the state because of a romantic relationship the prosecutor had with a former top deputy. The legal filing from the Republican presidential candidate and eight co-defendants asked the appeals court



to reverse a judge's ruling this month that allowed Fani Willis, the District Attorney of Fulton County, to continue prosecuting the case.

- Elon Musk [was questioned for two hours in a defamation lawsuit](#) accusing him of falsely suggesting a California man was involved in a neo-Nazi street brawl. Musk has denied that his social media post on X was defamatory, and he is seeking the dismissal of the lawsuit in Texas state court.
- The Federal Defenders of New York named one of its lawyers, Tamara Giwa, [to serve as its next executive director](#). The group represents indigent defendants facing criminal charges in Manhattan and Brooklyn federal courts.
- Former D.C. waterfront mainstay Captain White Seafood sued Hunton Andrews Kurth, [accusing the 900-lawyer law firm of botching its lease agreements](#) and forcing the seafood market to leave its perch in what is now the city's multibillion-dollar Wharf development. A federal judge in 2021 invalidated what Captain White believed were 30-year leases but instead were month-to-month.

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That's how many U.S. Senate Democrats so far who said they planned to vote against Adeel Mangi's nomination to become the nation's first Muslim federal appeals court judge. Those chances diminished after Senator Jacky Rosen of Nevada became the latest Democrat to publicly announce she would vote against him. Mangi was nominated to serve on the Philadelphia-based 3rd Circuit. Two other Democrats said they would join with Senate Republicans to vote against confirming him. [Several law enforcement groups have come out opposed to Mangi.](#)

Columnist spotlight: [Conservative appeals court will probe certification of Anadarko investors' class action](#)

It's never a happy development for plaintiffs, [writes Alison Frankel](#), when a federal appeals court agrees to review a trial judge's decision to certify an investor class to pursue securities fraud claims. So the securities bar should be watching what happens next week at the 5th Circuit, where defense lawyers for Anadarko Petroleum will argue that the Supreme Court's 2021 Goldman ruling requires appeals court to undo the certification of a class of shareholders alleging that the company covered up disappointing drilling results in a much-ballyhooed oilfield in the Gulf of Mexico.

"If we don't have a viable court system that's able to function efficiently, then we have tyranny."

—Senior U.S. District Judge Reggie Walton, who [spoke in an interview](#) on CNN about threats against the federal judiciary and responded to attacks former President Donald Trump has leveled against the daughter of the judge presiding over his upcoming New York criminal trial. In a rare interview for a sitting federal judge, Walton said he had decided to speak out because it was important for judges to help maintain the rule of law.

Coming up this week

- Today, a bench trial is beginning in federal court in Florida in a challenge to a state law that imposes restrictions on community voter registration organizations. The challengers,



Hispanic Federation, Poder Latinx and four Florida residents, say the state put forward the restrictions in an effort to suppress voters. The challenge claims the law is unconstitutional. The group claimed the law was preempted by federal law, but the judge [rejected that argument](#) in February.

- Also today, the Massachusetts Supreme Judicial Court is slated to consider once again whether 7-Eleven franchise operators could be considered the company's employees under state law, which would entitle them to minimum wage and other protections. The 1st Circuit in August asked the court to weigh in for a second time on whether 7-Eleven franchises "perform any service" for the company, one of the criteria to be deemed employees. The SJC last year [unanimously held](#) in the case that a state law determining when workers are employees or independent contractors can apply to franchise relationships, but the case was later dismissed based on another facet of that law.
- On Tuesday, a federal judge will consider whether to issue a preliminary injunction barring former DraftKings executive Michael Hermalyn from using the company's trade secrets or soliciting its clients or employees after [he joined sports betting rival Fanatics](#) just days before the Super Bowl. DraftKings is also seeking to ban Hermalyn's employment at Fanatics, something U.S. District Judge Julia Kobick in Boston declined at a hearing in February to do in a temporary restraining order but said she would consider as part of an injunction.
- On Thursday, a Tennessee judge will consider whether to issue a temporary injunction blocking the application of the Republican-led state's abortion ban when women are suffering severe pregnancy complications and in cases of lethal fetal conditions. The lawsuit was brought by lawyers at the Center for Reproductive Rights on behalf of several women and is pending in the Tennessee Twelfth Judicial District Court.
- On Friday, Donald Trump [faces a deadline to post a \\$175 million bond](#) in his civil fraud case before the New York attorney general can start seizing the former U.S. president's assets. On March 25, Trump won a pause in his \$454 million [civil fraud judgment](#) if he posted a smaller \$175 million bond within 10 days.

In the courts

- A federal judge [forced New Jersey to scrap its unique primary ballot design](#) that gives party-backed candidates an advantage, in a decision that could significantly upset the state's political system. The [ruling](#) by U.S. District Judge Zahid Quraishi in Trenton was a victory for Democratic U.S. Representative Andy Kim, who along with two congressional candidates had sued, arguing the ballot design was unconstitutional.
- U.S. District Judge Jed Rakoff in Manhattan [dismissed seven lawsuits by investors](#) who accused Goldman Sachs Group and Morgan Stanley of misconduct that fueled the rapid March 2021 collapse of Bill Hwang's \$36 billion firm Archegos Capital Management. In a brief [order](#), Rakoff dismissed with prejudice the investors' market manipulation and insider trading claims against the banks, which had been two of Hwang's main brokers.
- U.S. District Judge Mark Pittman, who is in a Texas court that has become a favorite for conservative opposition to Biden administration policies, [transferred a lawsuit challenging a CFPB rule](#) curbing credit card late fees to a court in D.C. Pittman [said](#) that most of the parties involved in the lawsuit are in the nation's capital, adding that "venue is not a continental breakfast, you cannot pick and choose on a plaintiffs' whim where and how a lawsuit is filed."



- Blackwells Capital is ratcheting up the pressure on Walt Disney in a bruising boardroom battle by [suing the entertainment giant in Delaware court for information](#) that may point to possible disclosure violations in dealings with hedge fund ValueAct Capital. The suit is the latest chapter in a fight over who will sit on Disney's board and help guide the company, with Blackwells and another hedge fund, Trian Fund Management, trying to persuade investors to elect their director candidates while Disney is backing its own directors.
- A federal judge in California [appeared poised to reject Tesla's bid to toss out](#) a U.S. agency's lawsuit accusing the electric carmaker of tolerating rampant harassment of Black workers at its Fremont, California, assembly plant. U.S. District Judge Jacqueline Scott Corley in San Francisco during a hearing repeatedly disagreed with claims by Tesla's lawyers that the EEOC failed to include any facts in its lawsuit backing up its claim of pervasive unlawful race bias.

Industry moves

- **Saul Ewing added bankruptcy partner Zev Shechtman to its Los Angeles office. Schechtman was previously at Danning Gill Israel & Krasnoff. ([Saul Ewing](#))**
- Polsinelli hired healthcare partner Zachary Rothenberg. Based in Los Angeles, Rothenberg was previously at Nelson Hardiman. ([Polsinelli](#))

Lawyer speak: Unveiling the power of gender lens investing in M&A

[Natasha Allen and Alicia D'alba Dornier of Foley & Lardner unpack the rise of Gender Lens Investing in M&A](#), which involves scrutinizing deals' impact on gender diversity, women-owned businesses, and the overall pursuit of gender equality in the workforce.

The Afternoon Docket

Reuters

Caitlin Tremblay

April 3, 2024

What's going on today?

- U.S. [pushes back on judge over Trump claim](#) that classified records he kept were personal.
- George Carlin's estate [settles lawsuit over AI-generated comedy routine](#).
- Law firm [merger pace picks up](#), and more in Career Tracker.

Bar exam data bodes well for February pass rates, after two-year slump

Early data from the February bar exam suggests that pass rates will increase and the attorney licensing test has stabilized after several years of volatility attributed to the COVID-19 pandemic. [Read more.](#)



The national average score on the Multistate Bar Exam ticked up 0.7 of a point to 131.8, according to the National Conference of Bar Examiners. The number of February examinees across the country was the highest in five years, at 19,496.

More top news:

- [U.S. pushes back on judge over Trump claim that classified records he kept were personal](#)
- [George Carlin's estate settles lawsuit over AI-generated comedy routine](#)
- [Two plead guilty to insider trading related to Trump Media merger](#)
- [Sex abuse lawsuits against Yeshiva University can proceed, NY judge says](#)
- [Two plead guilty to insider trading in Kodak before Trump loan announcement](#)
- [AIG sues former senior execs who launched rival insurer Dellwood](#)

Career tracker...

[Law firm merger pace picks up in early 2024](#)

The number of law firm mergers in the first three months of 2024 was 25% higher than in the same time period in 2023. That stepped-up activity is expected to continue through the year. [Read more.](#)

Lisa Smith of Fairfax Associates said she anticipates merger activity in 2024 to outpace last year's numbers. That trend, she said, will [continue a three-year upward trajectory](#) for law firm mergers after a dip during the COVID-19 pandemic.

More from the legal industry ...

Law firm Croke Fairchild Duarte & Beres [hired](#) former top Republican in the Illinois House of Representatives, Jim Durkin, as a partner ... A Black lawyer sued legal recruiting firm Major, Lindsey & Africa, alleging it is ["blackballing"](#) her ... Legal technology company Luminance raised [\\$40 million](#) in a new funding round ... Deans from 26 law schools asked the ABA to pull back on a proposal to extend its seal of approval to [fully online](#) law schools ... A Trump ally filed a complaint about U.S. District Judge Reggie Walton, who [criticized](#) Donald Trump's attacks on the judiciary ... And a study found that law student diversity, especially at top schools, [shrank after affirmative action bans](#).

Moves ...

In New York ...

Orrick [added](#) Laura Bagarella, an executive compensation and benefits partner from Cleary Gottlieb ... King & Spalding [brought on](#) Jennifer Recine, Sarmad Khojasteh and David Kupfer as business litigation partners from Kasowitz Benson ... Alston & Bird [hired](#) mergers and acquisitions practice partner David Shaw from Fried Frank ... Akin [picked up](#) real estate partner Avi Feinberg from Fried Frank ... Moses & Singer [brought back](#) Liberty McAteer as a partner in its IP and AI and data law groups ... Akin [added](#) Scott Colton as a partner in its special situations and private credit practice from Paul Hastings ... Steptoe [picked up](#) Alexandra



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Scheibe as a partner, who was the head of McDermott's financial technology and blockchain practice.

In Washington, D.C. ...

Holland & Hart [hired](#) former Trump-era EPA secretary Andrew Wheeler as a partner and head of the firm's federal affairs team ... BakerHostetler [added](#) Matthew Wochok as a tax partner from Morris, Manning & Martin ... Skadden [brought on](#) James Fredricks as an antitrust partner from the DOJ, where he was a chief in a criminal section of the antitrust division ... Proskauer [added](#) antitrust litigator Mark Rosman as a partner from Wilson Sonsini ... Foley & Lardner [hired](#) Mark Grundvig as an antitrust partner from the DOJ, where he recently served as assistant chief of a criminal section in the antitrust division.

In Los Angeles ...

Boies Schiller [added](#) Nili Moghaddam, as a partner who will focus on corporate litigation, white-collar defense and trial matters. She previously was the chief legal officer at property technology company Bungalow ... **Saul Ewing [hired](#) bankruptcy partner Zev Shechtman from Danning Gill Israel & Krasnoff** ... Polsinelli [added](#) healthcare partner Zachary Rothenberg from Nelson Hardiman.

In San Francisco ...

Mintz [brought on](#) Laura Franco as an IP partner from Winston & Strawn.

In Denver ...

Husch Blackwell [acquired](#) a four-lawyer team from Lewis Roca.

And more ...

Morrison & Foerster [hired](#) a team of cybersecurity lawyers from rival firm Goodwin Procter, including a former practice leader.

[Amid lagging associate hires, why these law firms bucked the trend](#)

The war for associate talent is over. The associates lost. That's [Jenna Greene](#)'s takeaway from a recent report by the National Association for Law Placement that found lateral hires by law firms in 2023 hit their lowest point since the Great Recession of 2010. But not everywhere. Greene in her latest column digs into exclusive data from Leopard Solutions that shows which big firms have continued to hire lateral associates apace -- [and which have pulled back the most](#).

Check out other recent pieces from our columnists: [Alison Frankel](#) and [Jenna Greene](#)

In other news...

Trump calls migrants "animals," [intensifying focus](#) on illegal immigration ... Here are the results of [yesterday's primaries](#) ... Many patients of destroyed Gaza hospital [will die if not evacuated](#), the WHO chief warns ... Finnish police say [bullying was motive](#) for school shooting ... Taiwan's [strongest earthquake in 25 years](#) kills nine people with 50 missing ... Hunger grips southern Africa as [Zimbabwe declares drought a disaster](#) ... Reindeer herders [battle power line needed](#)



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for Norway's climate goal ... And the White House directs NASA to create a [time standard for the moon](#).