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Lawyers in Stormy Daniels Case Battle Over Attorney-Client Privilege

By ALM MEDIA

Michael Avenatti, attorney for Stormy Daniels, leaves the Daniel P. Moynihan Courthouse in Manhattan. April 13, 2018. (Photo by David Handschuh/ALM)[/caption] Privileged information about the deal brokered between Stephanie Clifford, aka adult film actress Stormy Daniels, and President Trump's lawyer Michael Cohen could soon become public, depending on the outcome of a dispute between her former lawyer and her current lawyer. Clifford on Wednesday filed a new lawsuit alleging Keith Davidson, her former lawyer, deceived her and acted as a "puppet" to benefit Cohen and Trump.

Davidson's lawyer, Michael Padula, responded that any suggestion that Davidson and Cohen had a cozy relationship was "ridiculous." Davidson's legal team at Florida-based Carlton Fields also said Thursday that Clifford's breach of fiduciary duty suit, filed by lawyer Michael Avenatti in state court in Los Angeles, may pave the way for Davidson to cite information related to his work for Clifford that would otherwise be protected by attorney-client privilege. "We are formulating our opinion about whether or not the filing of this lawsuit will impact a waiver of the attorney client privilege," Padula said. "We believe there's a chance that Mr. Davidson may be able to ask a judge to waive attorney-client privilege so he can protect himself." He added, "Mr. Avenatti can't use attorney-client privilege as a sword and shield." In an email, Michael Avenatti responded that "Mr. Davidson and his counsel don't appear to know the law in California."

Avenatti also shared a letter he sent Padula and Carlton Fields' attorneys arguing that the filing of the lawsuit does not permit a waiver of attorney-client privilege. "We are extremely disturbed by your and your client's stated intent to deliberately breach the attorney-client privilege based on a purported 'full and complete waiver of the attorney-client privilege'," Avenatti wrote to Padula. "Let this letter serve as notice that any act of publicizing or otherwise disclosing to others any communications protected by the attorney-client privilege will be met with a swift response causing Mr. Davidson

serious additional legal problems." Avenatti wrote that such "legal problems" would extend to "any other attorneys or third-parties who assist or aid and abet Mr. Davidson in his ethical breeches." Upon filing the suit, which seeks damages exceeding \$100,000 from both Davidson and Cohen, Avenatti took to Twitter to disparage Davidson. "He is a disgrace to the profession," Avenatti tweeted Wednesday. "Watch him now try and distract away from his own unethical conduct. Ms. Daniels deserved better." Clifford's alleged tryst with Trump has made household names out of the adult film star, Avenatti, and Cohen. Davidson has been less public, but his name has surfaced in some of Trump's most salacious controversies. In addition to formerly representing Clifford, Davidson also previously worked as attorney for former Playboy model Karen McDougal who similarly alleges having had an affair with Trump. American Media Inc., owner of the National Enquirer, paid McDougal \$150,000 before the 2016 election to keep her story quiet.