

From: "[REDACTED], [REDACTED] (USANYS) [Contractor]" <[REDACTED]>
To: "[REDACTED]" <[REDACTED]>
Cc: "[REDACTED] (USANYS)" <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED] (USANYS) [Contractor]" <[REDACTED]>

Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

Date: Wed, 11 Aug 2021 21:33:23 +0000

Attachments: Maxwell_problem_files_-_Images_Not_Exported.xlsx

Hi again,

Good news, [REDACTED] was able to run searches for those last 200 files way more quickly than anticipated. Let me know what you think of the attached spreadsheet. The Bates number column indicates a Bates number Maxwell/her counsel identified as one she had an "images not exported" issue; the "Export File" column indicates what Relativity production export it was from; and the "Relativity Search Result" column indicates what the possible issue is with the Bates number identified. Descriptions of each type of entry in the spreadsheet are below. Let me know if you have any questions.

Thanks,
[REDACTED]

CORRUPTED DOC W/ EXTRACTED TEXT - This indicates that the original document was corrupt but we were able to supply extracted text from the document. An image placeholder was sent that says "This File is Corrupted/Unprintable and Cannot be Produced." The information for these documents would be in the extracted text.

Download NATIVE No Image – This indicates that native files and extracted text are available for this document, but there is no image for this document.

IMAGE & NATIVE AVAILABLE – This indicates that native files and images are available for this document.

IMAGE NO EXPORT AVAILABLE – This indicates that for this document, the only data available are an image placeholder and no extracted text. All of the extracted text will say "full text for this document is not available." All of these documents are 1 kb files (very small file size).

IMAGE, NATIVE, TXT VIEWABLE – This indicates that all of the images, natives and extracted text can be viewed. There were no issues with any of these documents.

NATIVE, TXT VIEWABLE W/OUT IMAGE – This indicates that this document contains native files and extracted text, but we were unable to image these documents. There was an image placeholder for these documents that says "Document Produced Natively." For these documents you can review the native files and the extracted text.

NATIVE, TXT W/ PLACEHOLDER – This indicates that the document has a native format and extracted text, but there were some pages or the entire document that could not be imaged. An image placeholder was provided that says "Image for this document is not exported." For these documents you will need to view either the native file or the extracted text.

NEED BEGIN BATES – This indicates that the Bates number provided is part of a document but are not the first Bates number in the document. As such, our vendor could not determine the issue for these pages.

SHOWING CONVERSION ERROR – This indicates that the document was provided in native format. No text could be extracted from this document. There was a placeholder provided that says "Document Produced Natively." All of the extracted text will say "full text for this document is not available."

identified Bates number, the paralegals have noted the status of each image and/or document. Below please find a key explaining each of these different status entries:

- Blanks
 - “Confirmed Blank” means the document has no content.
 - “Not Blank” means there is content to the document. For documents in this category, please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “No Native” means there is no corresponding native with the image.
 - “N/A – Not PAE Export” means the document was not produced by our vendor.
- Not Supported
 - “.raf files “ means we are unable to open these files on our system and are asking our vendor and IT for assistance. We will reach back out once we have obtained that assistance.
 - “.txt file (blank)” means the document has no content.
- Can’t Read – Won’t Open
 - “Image Opens” means there is content to the image. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “Image Opens – Black Box(es)” means these images contained redactions of nudity. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “Native Opens” means there is content to the native. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “No native” means there is no corresponding native with the image.
 - “Document Produced Natively” means that a cover sheet was produced instead of an image for this document.
 - “Corrupt” means the document has no viewable content.
 - “Native Password Protected” means we are unable to open this document and are asking our vendor for assistance. We will reach back out once we have obtained that assistance.
 - “N/A – Not PAE Export” means the document was not produced by our vendor.
- Missing
 - “Image Opens” means there is content to the image. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “No native” means there is no corresponding native with the image. We are conferring with our vendor regarding certain documents for which the image cover sheet indicates the document was produced natively but for which we do not have a corresponding native. We will reach back out once we have obtained that assistance.
 - “Document Produced Natively” means that a cover sheet was produced instead of an image for this document.
 - “Not Missing – Opens” means there is content to the native. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “Image for this document is not exported” means that we do not have these images. We are conferring with our vendor regarding these documents and will reach back out once we have obtained assistance.
 - “Blank” means the image file is blank.
 - “Not Missing – Corrupt” means the document has no viewable content.
- Corrupt
 - “Document Produced Natively” means that a cover sheet was produced instead of an image for this document.
 - “Not Corrupt” means there is content to the document. Please let us know if you are requesting that we reproduce these documents to Ms. Maxwell at the MDC.
 - “Password Locked” means we are unable to open this document and are asking our vendor for assistance. We will reach back out once we have obtained that assistance.
 - “Blank File” means the native file we have is blank. We are checking with our vendor for assistance with such files and will reach back out once we have obtained that assistance.
 - “Blank” means the image file is blank.
 - “Corrupt” means the document has no viewable content.
 - “No Native File” means there is no corresponding native with the image.

- o "N/A – Not PAE Export" means the document was not produced by our vendor.
- o "Lazer Scan" means that the file is part of the 3D scan of Epstein's private island. As you may recall, there were difficulties producing the 3D scan to counsel in a viewable format, and we reproduced these documents to counsel on multiple occasions. Within the lazer scan production there are pdf files that should be viewable and should reflect the substance of the 3D scan.

Best,

From: Laura Menninger [REDACTED]
Sent: Tuesday, May 18, 2021 12:21 PM
To: [REDACTED] <[REDACTED]>
Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED]; 'Bobbi Sternheim [REDACTED]
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED] –

Following up on the below, as I believe these are the outstanding issues from this email chain.

1. When do you expect to have clarification from the FBI regarding the discrepancy in highly confidential material count?
2. Same for the de-designated HC materials?
3. Your answer regarding Bates-stamped but content-less files only addressed those that you took off of Epstein devices. I asked about a file that your office created – an Excel spreadsheet – that did not have content yet you Bates-stamped and produced it. Are there others?
4. When do you expect to have answers to the list of documents that our client is unable to view at the MDC? It is a few days shy of a month since I forwarded that list to you and I am hoping that you will have answers in the next few days.

I will wait for answer to 1 and 2 above before I can adequately address your position on the HC materials. It may be that we need to go back to the Court to address your definition of highly confidential which is unlike I have seen on even child pornography cases.

Thanks for your prompt attention to these matters.

-Laura

Laura A. Menninger | Partner
Haddon, Morgan & Foreman, P.C.
150 E. 10th Avenue | Denver, CO 80203

From: [REDACTED] <[REDACTED]>
Sent: Tuesday, May 11, 2021 9:01 PM
To: Laura Menninger [REDACTED]
Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED]; 'Bobbi Sternheim [REDACTED]
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

As I understood it then, there were approximately 5,500 HC images that you made available for review. However, the FBI Report dated January 27, 2021 (produced at SDNY_GM_02742399) indicates there are approximately 33,747 HC images and 895 HC videos that were identified by a digital review of CART-processed evidence; I presume based on the CART numbers that this list is the same as the images extracted from Epstein's devices, or as I understood it, the content on your hard-drive #2 above.

I am completely unclear as to why you informed me that there were 2,100 nude images from Epstein's devices, but this report seems to indicate there were approximately 34,000 HC images and videos. Please let me know if I am misunderstanding what you told me and if so, what the correct information is.

I reiterate my request that you provide to us hard-drives with all of the HC material minus any child pornography.

I am available to discuss if that would be more convenient.

Thanks,

Laura

Laura A. Menninger | Partner
Haddon, Morgan & Foreman, P.C.
150 E. 10th Avenue | Denver, CO 80203

From: [REDACTED] <[REDACTED]>

Sent: Friday, April 23, 2021 10:13 AM

To: Laura Menninger [REDACTED]

Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED]

[REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED]

[REDACTED] 'Bobbi Sternheim [REDACTED] >; [REDACTED]

(CIV) <[REDACTED]>; [REDACTED] <[REDACTED]>

Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

Laura,

I am working with our team as quickly as we can to address the issues you raised in the below email. In particular:

- I have asked our vendor to look into the issues with SDNY_GM_00467566. When I attempt to access that document on our Relativity database, I also receive an error message saying that the document is corrupt. I am not sure what this spreadsheet is because the only two spreadsheets that I'm aware of that correspond with the SDNY_PROD011 contained in the November 9, 2020 production are the two other Excel spreadsheets you referenced. In any event, I am looking into the issue.

[I understand from your subsequent email that the Excel spreadsheet at 467566 does not have any content. Are there any other "Bates-stamped" documents without content?](#)

It is possible that there are additional items that were recovered from electronic devices and storage media that do not have content. For example, as [REDACTED] and I discussed in a separate email exchange, certain attachments to emails on Epstein's devices were only partially recovered. Because they were attached to responsive emails, we produced those partially recovered attachments, even though many did not have content.

- I am similarly working with our vendor to understand how to best identify for you which Bates number corresponds with the metadata in the index contained in the Excel spreadsheets.

[We received your overlay on April 27. On April 28, I wrote you back with the persistent problems despite the overlay. I do not see that you have responded to those concerns. Can you please advise?](#)

I have been working with our vendor and paralegals to look into this issue and will respond to your April 28 email shortly.

- Can you please provide me with a list of the photos that you are unable to view? Once I have that list, I will check to see whether we are able to open them on our end.

I am not able to provide you a list of the photos I am unable to view, for a number of reasons including my work-product protections. I can highlight the file types that are contained on the disk and perhaps your vendor can tell us which reader will work with those file types:

apmaster
apversion
attr
avi
bmp
bup
dat
data
db
db-journal
doc
ds_store
f catalog
ifo
images #1
images 2
iphoto
ivc
jpg
mov
mpg
NULL
pdf
png
pps
ps
psb
psd
raf
tif
tiff
tropez
txt
xlsx
xml

I will forward this response to the vendor and see what, if any, assistance we can provide.

- Can you be more specific in identifying photographs that you believe should have been produced but have been omitted, please? We have endeavored with the FBI to produce copies of all non-nude photographs recovered from searches of Epstein's residence to the defense, and I am not aware of any intentional omissions.

See above.

Without specifics, I cannot address this issue further.

- I am discussing with the FBI your request that we produce all Highly Confidential images to you. I will respond to that request next week.

I do not believe I received a response to this last week as indicated. Can you please update me?

Please see above.

- Once we have a firm trial date, I will let you know by what date I expect to be able to provide you with a list of the Highly Confidential photographs we may introduce at trial.

Please advise.

We will discuss this request as a team now that we have a trial date of November 29, 2021.

- I am working with our paralegals to assess the list of files that your client is unable to review at the MDC. As soon as we have finished looking into those issues, I will let you know.

Is there any update on this project?

As I mentioned above, our paralegals are still working through this list of documents. As soon as I have information to provide on this score, I will reach out.

Best,

From: Laura Menninger <[REDACTED]>

Sent: Wednesday, April 21, 2021 1:42 PM

To: [REDACTED] <[REDACTED]>

Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca <[REDACTED]>

[REDACTED] 'Bobbi Sternheim <[REDACTED]>

Subject: US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED]:

I'm writing to follow-up on our discussion last Thursday regarding the photo evidence and to address a number of other critical problems with the discovery provided to date.

Unfortunately, both in the production to defense counsel and on the hard-drive supplied by your office to our client at MDC, there are thousands, if not hundreds of thousands, of photos that are still unreadable. We have spent countless hours, and a chunk of our client's resources, trying to rectify a number of these problems ourselves, to no avail. Our ability, and our client's ability, to review all of the discovery in this case is absolutely critical and is constitutionally guaranteed. Unless you can quickly propose a solution, we believe we need to raise this with the Court.

- We do not have a functional copy the Excel spreadsheet located at SDNY_GM_00467566. I have confirmed that the original spreadsheet provided to us is corrupt and the vendor and e-discovery provider cannot open it.
- The other two Excel spreadsheets from the production (and presumably the one we cannot open) are insufficiently detailed to tell us which photo goes with which meta-data.
 - The index contains multiple instances of the same "file name" with different hash values.
 - The index does not match any particular file with a Bates stamp.
 - The index does not indicate which files were withheld as "highly confidential."

- Many of the photo files that were provided in discovery (e.g., SDNY011) do not have a discernible reader. I cannot open them. Ms. Maxwell does not have a reader on her MDC laptop that can read them. If the government is able to view them, then we should be provided the means to view them as well.
- A number of photo files appear to be missing from the MDC laptop and are not highly confidential, based on my review of documents last week. Because we do not have a list of what was/was not produced, however, we cannot confirm.
- As you know, the 2 x “highly confidential hard-drives” in NY did not work until Thursday once an appropriate reader was added to the laptop. I did not have enough time to view all of the files. I do not have the reader that you ultimately added to that laptop.
- The discs that I attempted to view in NY (from various binders) would not load on the government laptop. I was unable to match up disks with potential files on the hard-drives. Because I did not have a functioning Excel spreadsheet, I also was not able to match any highly confidential photos from the hard-drives with the associated metadata.

I am requesting that you produce to defense counsel replicas of the two hard-drives that you made available for review last week, subject to all of the strictures of the protective order.

I recognize that you have designated as “highly confidential” photos that you contend contain “nude, partially-nude, or otherwise sexualized images, videos, or other depictions of individuals.” Among the photos on the hard-drive that I was able to view, there were a lot of “nude” and “partially-nude” photos of adults, but I did not see anything that would qualify as child pornography under the statute. Some of the photos only showed a woman’s back or shoulder. If you have reason to believe that there is child pornography contained on the two hard-drives, then certainly defense counsel is not asking to possess that material; you can designate it as such and we can view it at an acceptable location as occurs in any CP case.

Otherwise, I think the burden of reviewing adult nudity only in the government’s office or courthouse imposes an extraordinary cost on our client and prevents us from analyzing the metadata, having our experts review the file structures, keeps us from preparing photos for use at trial, and generally impedes our defense.

In a similar vein, can you let me know when you are willing to disclose any photos that you intend to introduce at trial? As to any of those, I will need sufficient information and time to analyze them for foundation and admissibility purposes with an appropriate expert.

Finally, I am attaching an incomplete list of the documents that our client still cannot read at MDC. It is a small sample, as she has had to spend hours of her “review” time communicating to our staff which files she cannot read. Also, the manner in which the discovery was provided to her (load file format) precludes her from comparing the “image” and the “native” files (they do not, for example, have clearly labeled bates-stamps).

I would appreciate as prompt a response as you can provide so that we can address any issues with the Court on Friday.

Thanks,
Laura

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