

From: "[REDACTED]" <[REDACTED]>
To: Laura Menninger <[REDACTED]> (USANYS)"
<[REDACTED]>
Cc: "[REDACTED]" <[REDACTED]> "[REDACTED]"
<[REDACTED]>, Jeff Pagliuca <[REDACTED]>
[REDACTED] (USANYS) [Contractor]"
<[REDACTED]>, "[REDACTED]" (USANYS) [Contractor]" <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]
Date: Mon, 30 Aug 2021 23:42:05 +0000

Laura,

With respect to your questions about the HC materials, as I noted in my earlier email, we do not know how the miscommunication about the number of images happened. Somehow that number was relayed incorrectly to me from the FBI during my verbal conversations with them. I have confirmed, however, that the correct number of images was saved on the hard drives that were made available to you for review during your trip to New York. In other words, although I was told (and relayed to you) that there was a much smaller number of HC images, the correct number of images ([REDACTED], the number indicated in the 302) was contained on the hard drives made available to you for your review at 500 Pearl in the spring.

The HC images come from two sources: First, there were HC images recovered from the CDs seized from Epstein's New York residence. Second, there were HC images and videos recovered from the electronic devices seized from Epstein during his arrest, the search of his New York residence, and the search of his Virgin Islands residence. The first category of HC images was made available for your client and defense counsel to review at the MDC in the fall. The first and second categories were both made available for your client and defense counsel to review at 500 Pearl Street in the spring.

My understanding from the FBI is that the drive that was sent to Colorado provides the HC images in html files, similar to those contained in the recent production of confidential images dated August 5, 2021. You can refer to the images by the title of the html file in which they are saved and the row number in which they appear within that html file. These files are not Bates stamped because we are not permitted to save them on the U.S. Attorney's Office's system, so our paralegals cannot stamp them.

Our team is continuing to assess what, if any, HC images we may seek to offer at trial. As soon as the team has made a final decision on that score, we will let you know. Given the many moving pieces with trial preparation, however, I cannot provide a more definite timeline at this point.

Best,

[REDACTED]
Assistant United States Attorney
Southern District of New York
1 St. [REDACTED] Plaza
New York, NY 10007
[REDACTED]
[REDACTED]

From: Laura Menninger [REDACTED]
Sent: Thursday, August 26, 2021 10:55 AM
To: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED] (USANYS) [Contractor]
<[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED] -

Thank you for getting me some dates and times. Unfortunately something else has come up in the meantime that makes today unworkable. I will plan to be there at 10:30 a.m. next Wednesday and see how far I can get before requesting additional dates and times.

In addition to my earlier questions, can you please let me know if there are Bates numbers or other production identifiers / logs for me to work off of during this review?

Thank you,
Laura

From: [REDACTED] (USANYS) <[REDACTED]>
Sent: Wednesday, August 25, 2021 1:23 PM
To: Laura Menninger [REDACTED] <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED] (USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

Laura,

The items are available for review tomorrow after 11 MDT or Wednesday, September 1, after 10:30 MDT. Please let us know when you plan to do the review so I can let the FBI agent know. The review will be at [REDACTED] in Denver and the FBI agent is [REDACTED]. If you need different or additional dates/times, please let us know. [REDACTED] will get back to you on your questions about HC materials.

Best,
[REDACTED]

From: Laura Menninger [REDACTED]
Sent: Tuesday, August 24, 2021 12:00 PM
To: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED] (USANYS) [Contractor]
<[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED] -

We are available to review the hard-drives and boots this Thursday (8/26), next Tuesday (8/31) or on September 1st. Let me know which FBI office and any local officer I need to coordinate with for entry to the building.

On the topic of HC materials, I don't believe I have yet received an explanation for [REDACTED] statement below ("I have confirmed with the FBI that the larger number contained in the 302 is accurate. I have not been able to figure out where

the disconnect arose between the actual number and the number that was verbally conveyed to me, which I then conveyed to you. I apologize for the mistake, which was unintentional.”). Can someone please provide an explanation for the reason those two numbers differed so dramatically? What is the current count of HC photos? Where did all of the HC photos come from?

We may need more than one session of viewing, depending on the size of the hard drives. I also may need to re-review with an expert once I have had an opportunity to view any new materials for the first time. I also likely will need to sort out a method of viewing these with my client.

Finally, given the volume of HC materials, [REDACTED] offered when we were in NY at some point to specify which if any HC materials the government seeks to introduce at trial. If you are able to do that now (prior to my review), it certainly will cut-down on the time needed to review and potential expert fees. Obviously if I am unable to view the materials in sufficient time, we may need to seek extra accommodations to complete the task, and a means of reviewing these new HC materials with Ms. Maxwell, as is her right.

Let me know if those dates work and an explanation.

Thank you,
Laura

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

From: [REDACTED] (USANYS) <[REDACTED]>
Sent: Sunday, August 22, 2021 1:04 PM
To: [REDACTED] <[REDACTED]>; Laura Menninger <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

Counsel,

We write to meet and confer about Judge Nathan's order (Dkt. No. 322) and some other issues. Please let us know if you are free to speak by phone tomorrow before 3 pm or Tuesday after 2:30 pm.

Also, please let us know some dates and times that you would like to review the hard drives and boots in Colorado.

Best,
[REDACTED]

From: [REDACTED] <[REDACTED]>
Sent: Wednesday, August 4, 2021 5:25 PM
To: Laura Menninger [REDACTED]
Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

Laura,

Thank you for your email and for your patience as I track down answers for you.

By the end of this week, I expect to have a production ready for you, which will contain two categories of images responsive to the discussions we have been having:

- First, the production will include several thousand images that the FBI has de-designated from Highly Confidential down to Confidential. These will be produced in a format that should provide you with all available metadata together with each image. This production is the culmination of the de-designation review process that the FBI has completed over the past few months.
- Second, the production will include all of the approximately 40,000 images previously produced to you, which were extracted from CDs seized from Epstein's New York residence. This production will be in a new format that should provide you with all available metadata together with each image.

For this production, we will need two 500GB hard drives (one for counsel's copy and one for Ms. Maxwell's copy) on which to load the materials.

I have also discussed your request that the FBI relocate certain items to the field office in Colorado to facilitate your review. The FBI is able to make such a transfer of two of the items you requested:

- The FBI will send hard drives containing the remaining highly confidential image and video files seized from Epstein's devices and CDs to Colorado, where you may review them. As was the case in New York, these will need to be reviewed on a government laptop in the presence of an FBI employee and cannot be copied, photographed, or removed from FBI property.
- The FBI will also send the boots that were recently taken into evidence at 1B items to Colorado, where you may review them. You may examine and photograph the boots in the presence of an FBI employee, but they may not be removed from FBI property.
- The photographs provided by [REDACTED] cannot be shipped out of the New York office because they are logged as 1A items and must remain with the case file in New York. We are happy to arrange a time for the defense to examine those photographs in person in New York. You may examine and photograph the photos in the presence of an FBI employee, with the understanding that any photographs of these materials must be treated as Confidential under the Protective Order in this case. There are relatively few photographs, so any review of these should not be time-intensive.

Both of the case agents on our team are out of the office this week and next week, but we are working to find other agents who can help us coordinate shipping the drives and the boots to Colorado. My hope is that they will get to Colorado by next week. Please let me know what date(s) you would like to review those items later this month, and I will coordinate with the FBI to schedule your review.

Best,

[REDACTED]
[REDACTED]
Assistant United States Attorney
Southern District of New York
1 St. [REDACTED] Plaza
New York, NY 10007
[REDACTED]
[REDACTED]

From: Laura Menninge [REDACTED]
Sent: Wednesday, July 21, 2021 7:37 PM
To: [REDACTED] <[REDACTED]>
Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca [REDACTED]

[REDACTED] (USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>

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

[REDACTED] -

I am writing to inquire regarding the status of the HC material review and de-designation (highlighted #2 below, from May 14) and also to discuss how we may go about reviewing the additional 30,000 HC materials that we were not made available to us when we traveled to NY for that purpose.

Do you know when the de-designation process will be complete? And when do you expect the de-designated documents will be disclosed?

Also, regarding the remaining HC materials (highlighted #1 below), we would propose that they be made available for our review at the FBI office here in Colorado within the next 30 days. We also would like to inspect at the same time and place (a) the originals of the VRG photos that you located after our evidence review and (b) the boots that you recently took possession of.

I am happy to schedule a time to discuss logistics if that would be easier.

Thanks,

Laura

Laura A. Menninger | Partner

Haddon, Morgan & Foreman, P.C.

150 [REDACTED] 10th Avenue | Denver, CO 80203

From: [REDACTED] <[REDACTED]>

Sent: Thursday, May 20, 2021 6:15 PM

To: Laura Menninger [REDACTED]

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

[REDACTED] Bobbi Sternheim [REDACTED]

(USANYS) [Contractor] <[REDACTED]>; [REDACTED] (USANYS) [Contractor]

<[REDACTED]>; [REDACTED] (USANYS) [Contractor] <[REDACTED]>

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

Laura,

Thank you for your email. Below please find updates regarding these outstanding issues:

1. I have confirmed with the FBI that the larger number contained in the 302 is accurate. I have not been able to figure out where the disconnect arose between the actual number and the number that was verbally conveyed to me, which I then conveyed to you. I apologize for the mistake, which was unintentional.
2. The FBI's review of the Highly Confidential material and de-designation remains ongoing. I have reached out to the case agent for an update on timing and will let you know when I have an estimate of when that process will be complete.
3. My office did not create the empty Excel spreadsheet. It was included on a hard drive provided to our vendor by the FBI containing the images from CDs seized from Epstein's residence and spreadsheets created by the FBI during its review of those CDs. I do not know the origins of that third blank spreadsheet, and the FBI has informed me that it only created two spreadsheets in connection with its review of the CDs. My best guess is that the blank

document was a temporary file that was automatically created when the spreadsheets were copied onto the drive, but I do not know that for certain. To the best of my knowledge, there are no blank files that my office created.

4. Our paralegals have been working to look into the thousands of Bates numbers you listed as unviewable at the MDC. Attached please find a spreadsheet our paralegals created providing the status of each document. You will see that the spreadsheet is divided into separate tabs for each category of problem you identified. Next to each 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.
- "N/A – Not PAE Export" means the document was not produced by our vendor.
- "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]>; Jeff Pagliuca [REDACTED]; 'Bobbi Sternheim [REDACTED]
Subject: RE: US v. Maxwell - [REDACTED] re photo and [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 [REDACTED] 10th Avenue | Denver, CO 80203
 [REDACTED]

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

Laura,

I have responded to your comments below in red.

I am working with the FBI to understand the discrepancy you pointed out, which I did not appreciate until receiving your May 7, 2021 email. The 2,100 estimate was the amount of files that the FBI verbally informed me had been loaded onto the second hard drive when I was arranging for your review of evidence at 500 Pearl. At the time, I did not recall that the 302 had a different number, and I did not check the number the FBI provided verbally against the 302. As soon as I receive clarification from the FBI, I will reach back out to you.

As for your request to have access to Highly Confidential images and videos, paragraph 12 of the Protective Order in this case defines Highly Confidential information as discovery material that "contains nude, partially-nude, or otherwise sexualized images, videos, or other depictions of individuals." That definition does not limit this category to child pornography. Paragraph 14 of the Protective Order further provides that any Highly Confidential materials "shall be made available for inspection by Defense Counsel and the Defendant, under protection of law enforcement officers or employees." Given those provisions, as well as the importance of maintaining the security of nude images of third parties, including victims, we are not prepared to provide you with copies of nude or partially-nude images from the hard drives. However, we appreciate your concern that images that do not contain nudity appear to have been designated as Highly Confidential. Accordingly, I am working with the FBI to de-designate any images that do not depict genitals, breasts, or buttocks. Once those images have been de-designated, our office will produce them to you.

Best,
[REDACTED]

From: Laura Menninge [REDACTED]
Sent: Friday, May 7, 2021 4:43 PM
To: [REDACTED] <[REDACTED]>
Cc: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>; Jeff Pagliuca <[REDACTED]>; 'Bobbi Sternheim' [REDACTED] (CIV) <[REDACTED]>
Subject: RE: US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED] -

Thank you for your response of April 23. I haven't heard back from you last week as promised on this or my April 28 request, so I'm writing to follow up. I have responses to specific questions of yours below in blue.

Additionally, I have more questions regarding your production of "highly confidential" ("HC") images and videos. When we met the week of April 13 in NY, during which time I requested to view all evidence in the government's possession, including all highly confidential material, you described for me two hard-drives that contained all of the HC images and videos from this case.

- First, one of those hard-drives you said contained all of the materials extracted from the disks contained in the black binders. There were approximately 40,000 or so images (Excel spreadsheet SDNY_GM_00467567) of which

3,400 images were deemed HC and tagged "#nudity" by your team (SDNY_GM_00467568). (I still await a response regarding the problems with your metadata overlay).

- Second, the other hard-drive contained images extracted from Epstein's devices which were searched pursuant to a warrant. You said the responsive image/video files were contained on that second hard-drive, and there were approximately 2,100 "nude" or HC images on that hard-drive. You did not produce the metadata for those images because it was still present on the files which had been digitally extracted.

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 █. 10th Avenue | Denver, CO 80203

From: █ <█>

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

To: Laura Menninger █

Cc: █ (USANYS) <█>; █ <█>; Jeff Pagliuca <█>

█ <█>; Bobbi Sternheim <█>

█ <█>; █ <█>

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 Chris 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 Menning

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

To: <>

Cc: (USANYS) <>;

<>; Jeff Pagliuca <>

Robbi Sternheim

Subject: OS v. Maxwell - [commercial photo and other discovery deficiencies]

:

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 [REDACTED]-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 ([REDACTED], 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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