

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2,

Plaintiffs

I.

UNITED STATES,

Defendants

**JANE DOE #1 AND JANE DOE #2'S SUPPLEMENTAL REQUEST
FOR PRODUCTION TO THE GOVERNMENT REGARDING NEW INFORMATION
CONCERNING INVESTIGATION OF HANDLING OF EPSTEIN NON-
PROSECUTION AGREEMENT**

COME NOW Jane Doe #1 and Jane Doe #2 ("the victims), by and through undersigned counsel, and request the defendant United States (hereinafter "the Government") to produce the original or best copy of the items listed herein below for inspection and/or copying, pursuant to the Court's Order (DE 99) directing discovery in this case, the Court's Order denying the Government's motion to dismiss and lifting stay of discovery (DE 189), and the Court's Omnibus Order (DE 190):

BACKGROUND

As the Government will recall, the victims have repeatedly asked the Government to stipulate to undisputed facts in this case. The Government has declined. Accordingly, the victims filed their Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies (DE 48) (the victims' "summary judgment motion") along with a Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts (DE 49).

On September 26, 2011, the Court denied the victims' motion to have their facts accepted (DE 99 at 11). At the same time, however, the Court has ordered discovery to develop the factual record concerning the summary judgment motion (DE 99 at 11). The Court reserved ruling on the victims' motion for an order directing the Government not to suppress relevant evidence (DE 99 at 11).

On September 28, 2011, the victims requested that the Government voluntarily provide documents concerning this case. The Government declined to provide even a single document.

On October 3, 2011, the victims sent requests for production of documents relevant to this case.

On November 8, 2011, the same day that the production of this discovery was due, rather than produce a single item of discovery or stipulate to a single fact, the Government filed a motion to dismiss the victims' case. The Government also filed an accompanying motion for a stay in this case.

On November 8, 2011, the Government filed an ex parte, sealed motion to stay further discovery in this case. (DE 121). On November 9, 2011, the Court granted an ex parte, sealed order to stay. (DE 123).

On December 5, 2011, the victims filed a response to Government's motion to stay. The victims strenuously objected to the Government's approach, alleging specifically that "delay appears to be the Government's motivation for filing the motion to dismiss." DE 129 at 2. The victims went on to recount the fact that the Government had waited three years to file a motion to dismiss, concluding that "as a practical matter, the Government's motion has had the desired effect of delay: While its motion remains pending, the victims have been effectively denied any ability to obtain discovery from the Government." DE 129 at 2-3. The victims also filed a

protection motion to compel (DE 130) asking that the Court direct the Government to produce the requested materials.

On January 24, 2012, the Government filed a reply in support of its motion to stay. DE 140. In that reply, the Government represented that it would voluntarily be providing information to the victims: “[T]he United States has agreed to provide some information to [the victims] even during the pendency of the stay and is undertaking a search for that information.” DE 140 at 4. Contrary to that representation, however, over the next seventeen months, the Government did not provide *any* information to the victims.

A year after the Government’s motion to dismiss, on December 6, 2012, the victims filed a Motion for a Prompt Ruling Denying the Government’s Motion for a Stay (DE 179). The motion explained that it had been more than a year since the Government had filed its motion for a stay and that the Government’s refusal to produce any information continues to effectively block the victims from learning what happened during the Government’s plea negotiations with the man who sexually abused them. The Government filed a response in opposition to that motion (DE 182).

On February 25, 2013, counsel for the victims sent a request to the Government that, in view of that fact that its requested stay had never been granted, it should begin fulfilling its court-ordered discovery obligations:

The victims believe that in view of fact that it has been more than fifteen months since the Government filed its motion for a stay of discovery and yet the Court has not granted that motion, the Court’s discovery order is in effect and controlling. Accordingly, the victims respectfully request that by March 8, 2013, the Government produce all of the materials which is covered by the victims’ discovery requests. If the Government has not produced those materials by March 8, 2013, the victims may be forced to seek the intervention of the Court to order the Government to follow its obligations.

If you would like to discuss this further, please feel free to set up a time where we can talk to you over the phone about all this. We are happy to work

with you to try and minimize any unnecessary burden from your discovery obligations.

E-mail from Paul G. Cassell & Bradley J. Edwards to Dexter Lee, et al., Counsel for the Government (February 25, 2013).

The Government ignored the e-mail and did not respond in any way.

Accordingly, in view of the Government recalcitrance and refusal to even discuss its discovery obligations, on March 14, 2013, the victims filed a motion to compel production of discovery materials. The Government did not respond to this motion.

On June 1, 2013, the Court denied the Government's motion to dismiss. DE 189. That denial also lifted stay of discovery proceedings. DE 189 at 14 ("The stay of discovery pending ruling on the Government's motion to dismiss entered on November 8, 2011 [DE# 123] is also lifted."). The Court also entered an Omnibus Order (DE 190) that, among other things, granted the victim motion to compel (DE 130).

SUPPLEMENTAL DISCOVERY REQUEST

The victims now request one specific item of supplemental discovery relating to information that, in large measure, has come into existence since they filed the first request for production of documents on October 3, 2011:

Jane Doe #1 and Jane Doe #2 have asked the Government to investigate their allegations that the U.S. Attorney's Office for the Southern District of Florida entered into a non-prosecution agreement with Jeffrey Epstein for sexual offenses committed against them and other victims based on considerations apart from the merits of the criminal case and also that violations of criminal law, rules of ethics, Justice Department policies (including policies on crime victims' rights), and the Crime Victims Rights Act occurred during the negotiations leading up to and surrounding the entry of the non-prosecution agreement. Please provide any information that the Government has developed concerning or relating to those allegations and the handling of the negotiations and consummation of the non-prosecution agreement, including any information developed by the Justice Department's Office of Professional Responsibility (OPR), the Federal Bureau of Investigation or other federal investigative entity, and any grand jury investigating these (or related) allegations, including any grand jury meeting in the Southern District of Florida, the Middle District of Florida, the District of

New Jersey, and/or the District of Columbia. For this one discovery request only, please include all relevant grand jury transcripts and evidence collected by the grand jury.

DEFINITIONS

For the purpose of construing the foregoing discovery requests, the following terms are defined:

The term "documents" means and includes, without limitation, all writings of any kind, including the originals and all non-identical copies or drafts, whether different from the original by reason of any notation made on such copy or draft or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, e-mails, electronic computer files, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice communications, offers, notations of any sort of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer print-outs, teletypes, facsimiles, invoices, work sheets and all drafts, alterations, modifications, changes, and amendments of any of the foregoing, graphic or aural writs, records or representations of any kind including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures; and electronic, mechanical or electric records or representations of any kind including, without limitation, tapes, cassettes and disc recordings, and writings and printed material of every kind.

The term "correspondence" means any tangible object that conveys information or memorializes information that was conveyed in tangible or oral form including, but not limited to, writings, letters, memoranda, reports, notes, e-mails, telephone logs, telephone billing information, telephone recordings, and interoffice communications.

The term "Epstein's victims" means any person that the Government identified as a possible victim of a sex offense committed by Jeffrey Epstein, including Jane Doe #1, Jane Doe #2, all victims identified in attachment to the non-prosecution agreement entered into by Epstein, and another person that the Government investigated as a possible victim of Epstein's sex offenses.

The term "Government" means the federal government, including all employees of and components of the United States Department of Justice (such as, the Office of the Attorney General, the Office of the Deputy Attorney General, the Criminal Divisions, the Office of Professional Responsibility, the Child Exploitation and Obscenity Section, the U.S. Attorney's Offices for the Southern District and Middle District of Florida, and the Federal Bureau of Investigation) and other federal government agencies with law enforcement responsibilities related to the Epstein case (such as the Internal Revenue Service). This request for production seeks all documents, correspondence, and other information held by all of these entities, including all employees of and components of the Justice Department that worked on or were in any way involved the Epstein investigation and/or that possess information relevant to the victims' claims.

The term "including" means containing within the request, but not limiting the request.

The term “witness statement” means any document or other recording in any form (including oral form) reflecting, recording, or otherwise memorializing a statement made or information conveyed by a potential witness, including for example FBI 302’s. The term includes information collected by any law enforcement, prosecuting or government agency, including all federal, state, and local law enforcement agencies located in Washington, D.C., or Florida.

PRIVILEGE LOG

If you believe that any document, correspondence, or other information requested in this request is subject to a privilege and if you intend to assert that privilege, please provide a “privilege log” consistent with Local Rule 26.1(g), including a description a document that is consistent with Local Rule 26.1(g)(3)(B). Your privilege log should include the type of document, general subject matter of the document, date of the document, and author and addressee of the document or correspondence.

REDUCING UNDUE BURDEN

If you believe that complying with any of the foregoing requests would be unduly burdensome, please contact victims counsel – Bradley J. Edwards – to discuss ways to reduce any such burden.

DATED: June 24, 2013

Respectfully Submitted,

s/ Bradley J. Edwards
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