

From: "

To: "

Subject: RE: Voluntary Production of Materials - three ideas

Date: Sat, 14 Jan 2012 00:17:13 +0000

Importance: Normal

We should probably talk about this as well.

From: Paul Cassell

Sent: Thursday, January 12, 2012 4:36 PM

To:

Cc:

Subject: RE: Voluntary Production of Materials - three ideas

Dear ,

Thanks for getting back to us. We're happy to let you find a convenient time to work through these issues with

Brad and I obviously continue to believe that everything we are asking for is appropriate. But to simplify things for now, here are three quick areas where we think the Government could produce things that would be helpful to us without burdening the Government. In advancing these three, we are obviously not conceding away other requests or limiting us in any way on other pending requests:

- (1) Can you at least agree to turn over to us the e-mails from Epstein's lawyers regarding the non-prosecution agreement? We have received the Government's half of the communications but not Epstein's for a number of the emails. (Epstein improperly withheld some of the e-mails without telling us, such as e-mails from Lillian Sanchez.) So turning over what Epstein said certainly can't be regarded as privileged. And the e-mails regarding the NPA are clearly within the scope of discovery that Judge Marra envisioned. So please just give us the e-mails regarding the NPA.
- (2) Also, can you at least agree to make your initial disclosures under Rule 26 of the Federal Rules of Criminal Procedure. At various points in the litigation, the Government seems to have regarded Rule 26 as controlling and then later not controlling. But without conceding whether it controls or not, can't you at least agree to make the normal disclosures that the Government makes in any civil litigation?
- (3) Can you agree to turn over to us any information that Bruce Reinhart was aware of the Government's efforts in the Epstein case. That would be useful to us in proving conflict of interest issues.

Thanks in advance for any voluntary help you can extend. Of course, in producing things, you would not be waiving any right to object to other production. And, of course, we are not waiving any right to seek other production.

Paul Cassell

Co-Counsel for Jane Doe #1 and Jane Doe #2

Paul G. Cassell

Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah

[REDACTED]

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From: [REDACTED]
Sent: Thursday, January 12, 2012 12:06 PM
To: Paul Cassell
Cc: [REDACTED]
Subject: RE: Voluntary Production of Materials?

Paul:

Sorry it has taken us so long to get back to you.

You and Brad are certainly correct that, notwithstanding our motion to stay discovery, we wish to cooperate to facilitate any discovery that may be required in this matter.

As our filings make clear, we do not believe that any discovery is legally appropriate in this case due to the jurisdictional issues we have raised. It is also our position that your clients' discovery requests are objectionable for a variety of reasons, including because they seek information protected by a variety of privileges, which include the attorney-client privilege and the deliberative process privilege, because they are overly broad and unduly burdensome, and because they are beyond the scope of the discovery contemplated by the court's order

Nonetheless, we remain willing to work with you and Brad to identify and reach an accommodation concerning certain non-privileged items that might be producible by the government at this time notwithstanding the government's motion to stay. In order to accomplish this, however, we would need some narrowing of your discovery requests that would identify those items that we could then evaluate for early voluntary production. That narrowing might perhaps be achieved through a joint cooperative discussion. Potentially, we might even reach accommodation on some items through joint stipulations. Let me make clear that by asking you to narrow your discovery requests, we are not requiring you to abandon any of your pending discovery requests – although it is our hope that cooperative discussion might resolve, or even eliminate the need for, some of those requests; rather, we are simply trying to jointly define a subset of those requests so that we could evaluate them for early voluntary production.

Unfortunately, my knowledge of the materials that might be responsive to the discovery requests is extremely limited, and [REDACTED] will thus need to be part of any discussions aimed at an early voluntary production. Can we set up a meeting to work through these matters after [REDACTED] has concluded his impending trial and [REDACTED] has concluded her § 2255 evidentiary hearing?

Thanks,

From: Paul Cassell [REDACTED] [u](#)
Sent: Monday, January 09, 2012 3:31 PM
To: [REDACTED]

Cc: V [REDACTED]
Subject: RE: Voluntary Production of Materials?

Dear [REDACTED]

As mentioned last week, Brad and I wanted to chat with you about where we are on discovery in this case. I spoke with Brad, and while our recollection of what you promised you were going to do may be slightly different than ours, we believe there was at least a general agreement to the spirit of the voluntary production – that is, you were going to cooperate to the extent that you are able.

As we explained on our phone call, we requested the things that we would like produced. While you may believe those requests to be overly broad and may assert that legal objection in your responses, you indicated that you would be willing to produce certain documents that may not be all the documents in your possession responsive to the request but that would amount to some documents or materials that we do not yet have. Without making us go through the unnecessary exercise of narrowing our requests, it would be most helpful if you would just shoot us over whatever documents or materials that you are willing to share with us voluntarily. We will agree that whatever production you make does not constitute a waiver of any legal objection you may have to any discovery request.

So, are you willing to produce anything to us is, I guess, the bottom line. Thanks for any voluntary help you can extend.

Paul Cassell
Co-Counsel for Jane Doe #1 and Jane Doe #2

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah

[REDACTED]

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From: [REDACTED]
Sent: Saturday, January 07, 2012 8:08 AM
To: Paul Cassell
Cc: V [REDACTED]
Subject: Re: Replies and Responses Due on January 6, 2012

Thanks. Hope everyone has a great weekend.

[REDACTED]

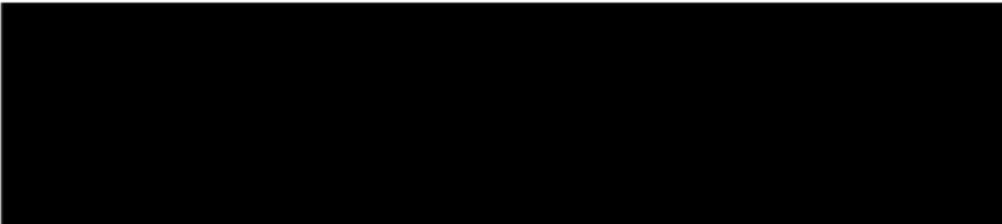
From: Paul Cassell [mailto:pcassell@utah.gov]
Sent: Friday, January 06, 2012 07:00 PM
To: [redacted] (SAFLS)
Cc: [redacted]; Brad Edwards
<be[redacted]@utah.gov>
Subject: RE: Replies and Responses Due on January 6, 2012

Hi [redacted]

1. Thanks for the clarification on the 90 day rule.
2. Brad and I need to confer about the discovery issues, but that is not a basis for our withholding consent for an extension. So you may indicate that we consent to the extension. Brad and I have a different recollection about discovery issues than you do. But let's chat about that next week.

Sorry to hear y'all are working at 7 PM on Friday night. Paul

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah



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From: [redacted]
Sent: Friday, January 06, 2012 4:07 PM
To: Paul Cassell
Cc: [redacted]
Subject: RE: Replies and Responses Due on January 6, 2012

Hi, Paul.

As always, we appreciate your efforts to be accommodating. With respect to the conditions that you have placed on your agreement to the requested extension:

(1) No 90-day notice is called for by Local Rule 7.1(b)(4) for the motions/responses/replies connected to the requested extension because none is a "motion or other matter which has been pending and fully briefed" and none is a "motion or other matter as to which the Court has conducted a hearing." In any event, after the recent amendments to the Local Rules, the 90-day notices are only "serve[d] on all parties and any affected non-parties." Court filing of the 90-day notices is no longer contemplated by the Local Rules.

(2) As to our discussion in early December, we have a different recollection. At that time, notwithstanding our motion to stay discovery, we expressed a willingness to work with you and Brad to attempt to identify items that might be producible by the government pursuant to a narrowed and specific request for production that seeks relevant items and where the production by the government would not be burdensome or otherwise objectionable. We remain willing to

[REDACTED]

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From: [REDACTED]
Sent: Thursday, January 05, 2012 5:24 PM
To: Paul Cassell; Brad Edwards
Cc: [REDACTED]
Subject: Replies and Responses Due on January 6, 2012

Paul and Brad,

Happy New Year. I need to ask if you have an objection to the government seeking a second enlargement of time, up to Tuesday, January 24, 2012, to file replies to the victims' two responses to the government's motion to dismiss and motion to stay discovery, and responses to the victims' protective motion to compel and protective motion for remedies.

[REDACTED] is preparing for an evidentiary hearing in a 28 U.S.C. 2255 motion, which is scheduled for January 24, 2012. I am scheduled to go to trial in a tort case sometime during the two week trial period commencing January 17, 2012. I have spent most of the preceding two weeks getting ready for the trial. My colleague [REDACTED] with sporadic assistance from [REDACTED] and I, will be preparing the responses and replies.

Please let me know if you have any objections. Thanks.

[REDACTED]