

From: [REDACTED]

To: Paul Cassell <cassellp@law.utah.edu>, "[REDACTED]"
<bedwards@nathtojustice.com>

Cc: [REDACTED]

Subject: RE: Voluntary Production of Materials - three ideas

Date: Thu, 19 Jan 2012 00:47:46 +0000

Importance: Normal

Dear Paul and Brad:

Thank you for your email. Here is where we are on your three requests.

Your first request asks for the emails from Epstein's lawyers to attorneys within the U.S. Attorney's Office regarding the non-prosecution agreement. Our understanding regarding the status of the current litigation is that Judge Marra currently has motions pending before him addressing: (1) whether you can use the emails that you have already received from other civil cases in this litigation and (2) whether any work product privilege or other privilege applies to the additional email communications that you seek. Given the status of those motions, it would be imprudent and inappropriate to voluntarily produce the materials to you prior to receiving the Court's ruling on those pending issues. We will, however, undertake to gather those materials in case the Court should rule that they are not protected.

Your second request asks us to make initial disclosures pursuant to Federal Rule of Civil Procedure 26. We do not believe that the government has ever taken the position that Rule 26 controls these CVRA proceedings, but as we certainly have made clear in recent filings, it is the government's position that the Federal Rules of Civil Procedure, especially those governing discovery, do not govern CVRA proceedings, which are not civil proceedings, but are instead part of the criminal justice process. Judge Marra has not ruled otherwise, and his order allowing discovery did not contemplate any discovery disclosures pursuant to Rule 26, but instead permitted only specified limited discovery. We will nonetheless attempt to assemble a list of persons known to us to have been involved in the negotiation of the Non Prosecution Agreement and the process of victim notification.

Your third request asks us to turn over information that Bruce Reinhart was aware of the Government's efforts in the Epstein case. At this time, we are unaware of any items that we could produce in that regard. Like other personnel in the West Palm Beach U.S. Attorney's Office who were not assigned to the Epstein matter, Bruce Reinhart would have had awareness of the investigation from conversations among AUSAs and from his observation of work activities taking place at the West Palm Beach office. But as I believe we have previously informed you, [REDACTED] was not a supervisor in the U.S. Attorney's Office during the investigation of Jeffrey Epstein, was never AUSA [REDACTED] supervisor, and had no assigned role in any investigation of Jeffrey Epstein. We are, nonetheless, undertaking a more thorough search to determine whether there exists any electronic evidence specifically relating to communications between [REDACTED] and others regarding the Jeffrey Epstein investigation. If any such information is discovered, we plan to produce it to you, unless the item is privileged or otherwise protected from discovery or dissemination, in which case we will inform you of that conclusion.

We will follow up with you on these items as soon as they are compiled.

Ed

Eduardo I. Sánchez
Counselor to the United States Attorney

United States Attorney's Office
99 N.E. 4th Street, Suite 800
Miami, FL 33132
Telephone: 305-961-9057
E-mail: [REDACTED]

From: Paul Cassell [REDACTED]
Sent: Thursday, January 12, 2012 4:38 PM
To: Sanchez, Eduardo (CS/LE) [REDACTED]
Cc: [REDACTED]
Subject: RE: Voluntary Production of Materials - three ideas [REDACTED]

Dear Ed,

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

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 [REDACTED] 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

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EFTA00205595

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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 Dexter and Marie 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 Dexter has concluded his impending trial and [REDACTED] has concluded her § 2255 evidentiary hearing?

Thanks,

[REDACTED]

From: Paul Cassell [REDACTED]
Sent: Monday, January 09, 2012 3:31 PM
To: [REDACTED]
Cc: [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

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

Thanks. Hope everyone has a great weekend.

[REDACTED]

From: Paul Cassell [<mailto:cassellp@law.utah.edu>]
Sent: Friday, January 06, 2012 07:00 PM
To: Sanchez, Eduardo (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Lee, Dexter (USAFLS); Brad Edwards
<bedwards@pathtojustice.com>
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
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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 work toward such a goal, but have been waiting to hear from you or Brad to begin the process of identifying the items that would be the subject of such a narrowed request. In fact, Marie called Brad several weeks ago to discuss the requests for admissions, but they were unable to connect at that time.

If the government's position on these two points causes you to withhold your agreement to our requested extension, we would be happy to inform the Court that you oppose our motion for extension

of time. If we do not hear from you by 7:00 pm Miami time that you agree to the requested extension notwithstanding the government's position on these two points, we will report to the Court that you object to the extension. Please be sure to send any reply concerning your position to Dexter, as he will be filing the motion for extension this evening.

Thanks, and have a nice weekend.

██████████
Eduardo I. Sánchez
Counselor to the United States Attorney
United States Attorney's Office
99 N.E. 4th Street, Suite 800
Miami, FL 33132
Telephone ██████████
E-mail ██████████

From: Paul Cassell [██████████]
Sent: Friday, January 06, 2012 10:41 AM
To: ██████████, Brad Edwards
Cc: ██████████
Subject: RE: Replies and Responses Due on January 6, 2012

Hey ██████████

As you know, we're happy to try and be accommodating. We would be glad to consent to additional time, but would ask in exchange for two things:

1. The various delays mean that several motions have now been (or will shortly be) pending for more than 90 days, triggering a 90 day report obligation under the local rules. We would trust you would be willing to file that with Judge Marra.
2. When we finished our telephone call with you some weeks back, Brad and I understood that we would be receiving (a) some initial discovery in the case and (b) a list of additional discovery that we could expect if your motion to dismiss is denied. But we have yet to receive anything at all regarding discovery. We would trust that you will carry through on what we understood you had agreed to in the telephone call.

Again, we are happy to help - but would ask you to help us on these two points. Thanks!

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

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From: [REDACTED]
Sent: Thursday, January 05, 2012 5:24 PM
To: Paul Cassell; Brad Edwards
Cc: S [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]