

From: "[REDACTED] (USAFLS)" <[REDACTED]>
To: Paul Cassell <[REDACTED]>
Cc: "[REDACTED] (USAFLS)" <[REDACTED]>, "[REDACTED] (USAFLS)" <[REDACTED]>, "Brad Edwards ([REDACTED])" <[REDACTED]>

Subject: RE: two questions: (1) certification re completion of 2013 production; (2) procedures for litigating objections to 2015 production

Date: Fri, 26 Jun 2015 14:42:35 +0000

Importance: Normal

Paul and Brad,

I agree with your procedure in filing a motion to compel on those requests for which the government has lodged an objection. As to the request for production, I will confirm whether there are any responsive materials to requests where we objected, to ensure we are not arguing over nothing. On Supplemental Discovery Request No. 5, we did not have any surveillance videos of Jane Doe No. 1, 2, 3, or 4. I will double-check on Supplemental Discovery Request numbers 3, 4, and 6, and let you know by June 30, 2015.

I will have a certification on the petitioners' First Request for Production and First Request for Admission by June 30, 2015. I am in the middle of several other projects right now. Thank you.

From: Paul Cassell [[mailto:\[REDACTED\]](mailto:[REDACTED])]
Sent: Thursday, June 25, 2015 4:14 PM
To: [REDACTED] (USAFLS)
Cc: [REDACTED] (USAFLS); [REDACTED] (USAFLS); Brad Edwards ([REDACTED])
Subject: RE: two questions: (1) certification re completion of 2013 production; (2) procedures for litigating objections to 2015 production

Dear [REDACTED]

Thank you for your (and [REDACTED]) recent production of some emails and associated privilege log. I trust that you will note our patience and willingness to work with you on your schedules. We write with two issues:

First, with regard to our 2013 discovery requests, as you know, we have been asking for some time now for the Government to certify that it has produced everything that it is going to produce on these requests. Will you please now send that certification? We understood that you were going to do that.

Second, we also have a question about 2015 discovery requests, concerning Mr. Dershowitz and other subjects. We've seen your response to our Request for Admissions (RFAs) and Request for Production (RFPs), raising relevance and privilege objections to answering. We understand your position, although I am sure that you can also understand that we disagree and wish to have Judge Marra make a ruling on who is right.

The question now is a procedural one. We have previously thought that you would raise these objections in the public court file, as you have done in the past. See, e.g., DE219-1. But instead, you raised the objections just with us. Accordingly, it seems like the next proper step for us to pursue would be to file a motion to compel answers to the unanswered RFAs and RFPs in the open court file, attaching the relevant parts of the RFAs and RFPs, as well as our supporting arguments and factual materials. You would then respond and we would then reply on the ordinary time frame – in other words, an ordinary motion schedule.

Do you agree that is the proper procedure? Or would you propose another procedure? We hope you will agree that this is the proper procedure. If so, we would then plan to communicate our procedural approach to defense counsel for Mr. Dershowitz to see if they think it is the proper procedure. We emphasize that we are only writing with regard to a PROCEDURAL issue: How to have the substantive disagreement between us litigated. Hopefully we can get that piece agreed between us, and then other relevant defense counsel, so that Judge Marra can just decide the remaining legal issues.

Thanks in advance for your prompt response on how best to proceed on these two questions. If you would like to have a conference call on this issue, we are of course happy to do that as well.

Paul Cassell and Brad Edwards for Jane Doe 1 and Jane Doe 2

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law

[REDACTED]

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