

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092,

**PLAINTIFF JANE DOE NO. 2's MOTION TO COMPEL
COMPLIANCE WITH SUBPOENA AND FOR ORDER
OF CONTEMPT AGAINST ALFREDO RODRIGUEZ,
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiffs, Jane Doe No. 2, et al., by and through undersigned counsel, hereby file this Motion to Compel Compliance with Subpoena and for Order of Contempt Against Alfredo Rodriguez, and Incorporated Memorandum of Law, pursuant to Fed.R.Civ.P. 45(e), and state as follows:

1. On July 25, 2009, Alfredo Rodriguez, a nonparty, was personally served a subpoena duces tecum to appear for deposition on July 29, 2009 ("the subpoena").¹ The

¹ Rodriguez was originally scheduled to appear for deposition on July 23, 2009, but failed to appear, claiming that he had "car troubles." Plaintiffs' counsel arranged for car service for him to appear at the July 29, 2009 deposition.

subpoena and proof of service are attached as Exhibit "A." He was commanded to provide testimony and produce the following:

Any and all journals, notes, diaries, writings or other documents referring to or relating to Jeffrey Epstein or events or incidents occurring at his residence located at 358 El Brillo Way, Palm Beach, Florida, including without limitation, the journal you described to Palm Beach Police that contains the names of girls who visited the residence.

2. Rodriguez did not object to the subpoena, nor did he claim the requested documents were privileged. He appeared for deposition on July 29, 2009, and August 7, 2009, but he failed to bring any of the requested documents. During his testimony on August 7, 2009, he swore that he had no responsive documents in his possession, and that he had turned over all such documents to the Palm Beach Police, including a journal which listed the names and phone numbers of young girls who came to the residence where he worked to give "massages" to Jeffrey Epstein. See Exhibit "B", deposition transcript of Alfredo Rodriguez, taken August 7, 2009, pp. 318-319.

3. On February 1, 2010, Rodriguez was arraigned in federal court on obstruction of justice charges based on allegations that he intentionally withheld documents from federal and state law enforcement authorities. These withheld documents encompass those requested in Plaintiffs' subpoena, including the journal listing names and phone numbers of young girls. According to the criminal complaint, after making misrepresentations to federal law enforcement authorities and withholding documents, he attempted to sell these documents to a cooperating witness for \$50,000. Rodriguez made this offer *after* his deposition on August 7, 2009, at which he testified under oath that he did not possess the documents. A copy of the criminal complaint is attached hereto as Exhibit "C".

4. It is likely that Rodriguez remains in possession of at least a copy of the journal that is the subject of the subpoena. Nonetheless, even if he did not retain a copy of the documents he handed to the cooperating witness, Rodriguez has the right to possession of those documents. Specifically, they are subject to production to Rodriguez in the discovery phase of his criminal case. The Assistant U.S. Attorney has an affirmative duty to produce all evidence in her possession that is material to the guilt of Alfredo Rodriguez, regardless of whether that information was requested by the Defendant or not. See United States v. Bagley, 473 U.S. 667 (1985). See also Fed.R.Crim P. 16(a)(1)(E). Evidence is material that creates a reasonable probability that the outcome of a criminal proceeding would be different if suppressed. Id. at 682. The journal in question is the central piece of evidence in the prosecution's case against Alfredo Rodriguez. Accordingly, Alfredo Rodriguez has, at the very least, a right to possession of the documents that are the subject of the Plaintiff's subpoena.

5. Rule 45(a)(1)(i), Fed.R.Civ.P., permits a party to subpoena documents from a nonparty that are within "that person's possession, custody or control." The term "control" under the federal discovery rules includes not only documents in the nonparty's possession, but also "the legal right to obtain the documents requested on demand." Searock v. Stripling, 736 F.2d 650 (11th Cir. 1984). Rodriguez has this right to obtain the subpoenaed documents under Bagley or in the normal course of discovery in his criminal case.² Therefore, it would not be an excuse or response that Rodriguez does not at this moment have possession of the subpoenaed documents.

² These documents, moreover, are not subject to the Fifth Amendment "act of production" privilege since they are already in the possession of the government and their

6. Plaintiffs' counsel has no other means of obtaining a copy of the documents in Rodriguez's possession except by means of an Order requiring full compliance with the July 25, 2009 subpoena.

7. Plaintiff further seeks an Order pursuant to Fed.R.Civ.P. 45(e) to hold Rodriguez in contempt of court, together with sanctions as this Court deems appropriate.

8. A Commentary to Rule 45(e) notes "the special role that contempt plays in enforcing subpoenas against nonparty witnesses". Fed.R.Civ.P. 45(e) (Commentary C45-26, Contempt). Where a nonparty fails to comply with a subpoena, "the threat of contempt is the only remedy." Id. The civil contempt power of the Court extends to jail of the nonparty to enforce compliance:

The contempt most often associated with the disobedience of a subpoena is the category of "civil" contempt, the purpose of which is to enforce compliance in the particular case, with any penalty imposed designed to further the rights of the party in whose behalf the subpoena issued. When it is still within a person's power to comply, for example, and the person willfully refuses to, the person can be jailed until compliance is offered. Even the jailing in that case is an aspect of civil, not criminal, contempt.

Id.

9. Plaintiffs' counsel has conferred with federal public defender David Brannon, who stated that Alfredo Rodriguez objects to the relief requested in this Motion in that Alfredo Rodriguez claims to no longer be in possession of responsive documents.

WHEREFORE, Plaintiffs, Jane Doe No. 2 et al., respectfully request (1) an Order requiring Alfredo Rodriguez to comply with the lawfully issued subpoena duces tecum and produce copies of all documents in his care, custody or control relating to Jeffrey Epstein,

production would not "implicitly authenticate" them. See Fisher v. United States, 425 U.S. 391, 410 (1976).

including without limitation, the log of names and phone numbers he recently attempted to sell to a cooperating witness; (2) an order holding Alfredo Rodriguez in contempt of court for failure to comply with the lawfully issued subpoena, and providing that Alfredo Rodriguez shall produce the requested documents to Plaintiffs' counsel by a date certain or be arrested and jailed for civil contempt until such time as the documents are produced; and (3) any and all other relief this Court deems appropriate.

Certificate Pursuant to S.D.Fla.L.R. 7.1(A)(3)

Counsel for the movant has conferred with counsel for the nonparty affected by the relief sought in this Motion in a good faith effort to resolve the issues raised in the Motion and has been unable to do so.

Dated: February 17, 2010

Respectfully submitted,

By: /s/ Adam D. Horowitz
Stuart S. Mermelstein (FL Bar No. 947245)
[REDACTED]
Adam D. Horowitz (FL Bar No. 376980)
[REDACTED]
Jessica D. Arbour (FL Bar No. 67885)
[REDACTED]
MERMELSTEIN & HOROWITZ, P.A.
Attorneys for Plaintiffs
18205 Biscayne Blvd., Suite 2218
Miami, Florida 33160
[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day to all parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Adam D. Horowitz

SERVICE LIST
DOE vs. JEFFREY EPSTEIN
United States District Court, Southern District of Florida

Jack Alan Goldberger, Esq.
[REDACTED]

Robert D. Critton, Esq.
[REDACTED]

Michael James Pike
[REDACTED]

Bradley James Edwards
[REDACTED]

Isidro Manuel Garcia
[REDACTED]

Jack Patrick Hill
[REDACTED]

Katherine Warthen Ezell
[REDACTED]

Paul G. Cassell
[REDACTED]

Richard Horace Willits
[REDACTED]

Robert C. Josefsberg
[REDACTED]

Via Facsimile and Regular Mail:

Dave Lee Brannon, Esq.
Federal Public Defender
450 S Australian Ave Ste 500
West Palm Beach, Florida 33401-5008
[REDACTED]

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

Jane Doe No. 2)
Plaintiff)
v.) Civil Action No. 08-CV-80119-MARRA/JOHNSO
Jeffrey Epstein)
Defendant) (If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION

To: Alfredo Rodriguez
11349 SW 86 Lane, Miami, FL

Alfredo Rodriguez
5/27/09
7/25/09 5:24pm

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Kress Court Reporting 1031 Ives Dairy Road, Suite 228, Bldg. 4 North Miami, FL 33179	Date and Time: 07/29/2009 11:00 am
---	---------------------------------------

The deposition will be recorded by this method: Court Reporter and Videographer

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Any and all journals, notes, diaries, writings or other documents referring or relating to Jeffrey Epstein or events or incidents occurring at his residence located at 358 El Brillo Way, Palm Beach, Florida, including without limitation, the journal you described to Palm Beach Police that contains names of girls who visited the residence.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 07/24/2009

CLERK OF COURT

OR

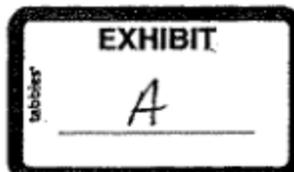
Signature of Clerk or Deputy Clerk

[Handwritten Signature]
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Jane Doe No. 2

, who issues or requests this subpoena, are:

Mermelstein & Horowitz, P.A. - Adam D. Horowitz, Esq.
18205 Biscayne Blvd., Suite 2218, Miami, FL 33160
Tel: 305-931-2200 - email: ahorowitz@sexabuseattorney.com



AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action (Page 2)

Civil Action No. 08-CV-80119-MARRA/JOHNSO

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the subpoena on the individual at *(place)* _____
on *(date)* _____; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

I returned the subpoena unexecuted because _____; or

Other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

MERMELSTEIN & HOROWITZ PA

ATTORNEYS AT LAW

Stuart S. Mermelstein



18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.sexabuseattorney.com

July 24, 2009

Via Process Server
Alfredo Rodriguez
11349 SW 86th Lane
Miami, FL 33173

Re: *Jane Does v. Jeffrey Epstein*

Dear Mr. Rodriguez:

As you are aware, your deposition has been rescheduled to July 29, 2009 at 11:00 a.m. due to your car problems on the previously scheduled date of July 23, 2009. We will provide car service to transport you to and from the deposition. **The car will pick you up at 9:45 a.m. on Wednesday, July 29, 2009.** Please review the witness and document subpoena you are being provided by the process server.

Thank you for your attention to this matter.

Very truly yours,

Stuart S. Mermelstein

SSM/lr

RETURN OF SERVICE

**UNITED STATES DISTRICT COURT
MIAMI-DADE District of Florida**

Case Number: 08-CV-80119-MARRA/JOHNSO

Plaintiff:

JANE DOE NO. 2

vs.

Defendant:

JEFFREY EPSTEIN

For:

Adam D Horowitz

MERMELSTEIN & HOROWITZ P.A.

18205 Biscayne Boulevard

Suite 2218

Miami, FL 33160

Received by MIAMI-DADE PROCESS, INC. on the 24th day of July, 2009 at 4:00 pm to be served on **ALFREDO RODRIGUEZ, 11349 SW 86 LANE, MIAMI, FL.**

I, **RAFAEL (BUDA) GONZALEZ**, do hereby affirm that on the **25th day of July, 2009** at **5:24 pm**, I:

Individually Served the within named person with a true copy of this **SUBPEONA TO TESTIFY AT DEPOSITION OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION** with the date and hour endorsed thereon by me, pursuant to State Statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Process Server, in good standing, in the judicial circuit in which the process was served and have proper authority in the jurisdiction in which this service was made. Under penalties of perjury, I declare that I have read the foregoing **document** and that the facts stated in it are true F.S. 92.525 Verification of documents.



RAFAEL (BUDA) GONZALEZ
Certified Process Server #1250

MIAMI-DADE PROCESS, INC.
247 S.W. 8 Street # 293
Miami, FL 33130-3513
[REDACTED]

Our Job Serial Number: 2009001154

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JANE DOE NO. 6, CASE NO: 08-CV-80994
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

JANE DOE NO. 7, CASE NO: 08-CV-80993
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

L.M.A., CASE NO: 08-CV-80811
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

JANE DOE, CASE NO: 08-CV-80893
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

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1 IN THE CIRCUIT COURT OF THE 15TH
2 JUDICIAL CIRCUIT IN AND FOR
3 PALM BEACH COUNTY, FLORIDA
4 CASE NO. 502008CA037319XXXXMB AB

5 B.B.,
6 Plaintiff,
7 Vs.
8 JEFFREY EPSTEIN,
9 Defendant.

10
11
12 1031 Ives Dairy Road
13 Suite 228
14 North Miami, Florida
15 August 7, 2009
16 1:15 p.m. to 5:30 p.m.

17 CONTINUED
18 VIDEOTAPED
19 DEPOSITION
20 of
21 ALFREDO RODRIGUEZ

22 taken on behalf of the Plaintiffs pursuant
23 to a Re-Notice of Taking Continued Videotaped
24 Deposition (Duces Tecum)
25 ---

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JANE DOE NO. II, CASE NO: 08-CV-80469
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

JANE DOE NO. 101 CASE NO: 08-CV-80591
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

JANE DOE NO. 102, CASE NO: 08-CV-80656
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.

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1 APPEARANCES:
2
3 MERMELSTEIN & HOROWITZ, P.A.
4 BY: ADAM HOROWITZ, ESQ.
5 18205 Biscayne Boulevard
6 Suite 2218
7 Miami, Florida 33160
8 Attorney for Jane Doe 2, 3, 4, 5,
9 6, and 7.

10 ROTHSTEIN ROSENFELDT ADLER
11 BY: BRAD J. EDWARDS, ESQ., and
12 CARA HOLMES, ESQ.
13 Las Olas City Centre
14 Suite 1650
15 401 East Las Olas Boulevard
16 Fort Lauderdale, Florida 33301
17 Attorney for Jane Doe and E.W.
18 And L.M.

19 PODHURST ORSECK
20 BY: KATHERINE W. EZELL, ESQ.
21 25 West Flagler Street
22 Suite 800
23 Miami, Florida 33130
24 Attorney for Jane Doe 101 and 102.

25 LEOPOLD-KUVIN
BY: ADAM J. LANGINO, ESQ.
2925 PGA Boulevard
Suite 200
Palm Beach Gardens, Florida 33410
Attorney for B.B.

to 274)

EXHIBIT

B

master bedroom?

A. Yes, ma'am.

Q. And how would you do that? If you want to turn the page over for the upstairs you could do that.

A. Okay.

MR. CRITTON: Are you going to mark this as an exhibit?

MS. EZELL: Uh-huh.

MR. CRITTON: Would that be Exhibit 3?

MR. EDWARDS: I think so.

(Exhibit No. 3 was marked for Identification.)

THE WITNESS: This is the master bedroom, master bath, and there were one, two -- the rest of the bedrooms were here and the master bedroom was here. This is master bath one and master bath two.

So the staircase came to the second floor like this and it was between the first and second bedroom. And you could go through here and you enter a foyer with double doors here, double doors here, and you enter the master bedroom.

BY MS. EZELL:

Page 315

1 Q. White. By the way, I have some more
2 water, would you like some?

3 A. Thank you, ma'am.

4 Q. I figure if I'm a little dry you may be
5 too.

6 I believe one of the items that you
7 mentioned that sometimes had to be picked up after
8 girls were there giving massages was a back
9 massager.

10 A. Yes, ma'am.

11 Q. Could you describe that for me, please?

12 A. It was a piece about this big.

13 Q. Would you say that's about 18 inches?

14 A. Yes, ma'am. And two prongs with the
15 rubber tips and a cord.

16 Q. Okay.

17 A. Or it could be detached too.

18 Q. Do you have any recollection of what make
19 that was?

20 A. No, ma'am.

21 Q. Were there any other massagers that you
22 recall seeing there regularly?

23 A. Those are the ones I remember. I think
24 they are from Sharper Image, but I don't --

25 Q. Okay. Were there often girls around the

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Q. All right. How would you get to the master bathroom on that end?

A. You go through these double doors, go around the bed and you gain access to the master bedroom -- master bathroom, sorry.

Q. And then there was another master bathroom on the other side of the room?

A. Yes, ma'am.

Q. Where generally did the massages take place?

A. Right here, ma'am.

Q. And is that in the master bathroom?

A. Master bathroom, yes.

Q. Do you recall what color the tile was in that bathroom?

A. There was carpet.

Q. Was there tile on the walls or marble or --

A. There was a sauna here with marble but outside the sauna everything was carpet, and the walls, they didn't have any tile. Oh yes, I will say four feet off the floor they will have marble.

Q. And do you remember what color marble it was?

A. White.

1 pool at the house?

2 A. Yes, ma'am.

3 Q. And were these sometimes the same girls
4 that came to give massages?

5 A. Yes, ma'am.

6 Q. Were there girls in addition to those who
7 came to give massages who hung around the pool?

8 A. The girls who were staying at the house.

9 Q. Okay. And so they weren't girls who just
10 regularly came to hangout around the pool?

11 A. No, ma'am.

12 MS. EZELL: Excuse me. Can we go off the
13 record for a minute?

14 (Thereupon, a recess was had.)

15 THE VIDEOGRAPHER: We're back on the
16 record with tape number two.

17 BY MS. EZELL:

18 Q. Mr. Rodriguez, did you receive a subpoena
19 that asked you to bring documents with you to the
20 deposition?

21 A. Yes, ma'am.

22 Q. And did you bring any with you?

23 A. I couldn't find anything at my house.

24 Q. Okay. I believe we talked about a
25 journal that you kept, and you looked for that?

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13 (Pages 315 to 318)

A. Yes, ma'am.
 Q. And you couldn't find it?
 A. I give it to Detective Joe.
 Q. Recarey?
 A. Yes, ma'am.
 Q. You mentioned that you called Mr. Jean-Luc Bernell about a recommendation when you were looking for a job.
 A. Yes, ma'am.
 Q. And did you know him from his visits in the home?
 A. Yes, ma'am.
 Q. Did you say that his wife's name was Eva?
 MR. CRITTON: Form.
 THE WITNESS: No, ma'am.
 BY MS. EZELL:
 Q. Do you know what his wife's name was?
 A. Eva was a model, a former model from years past who was friend of Mr. Epstein.
 Q. Do you know if she was married to Glenn Dubin? Do you know Mr. Dubin?
 MR. CRITTON: Form.
 THE WITNESS: I believe, yeah, I'm not sure, ma'am.
 BY MS. EZELL:

Q. Is she now a doctor?
 A. No, she was a model, her husband could be a doctor but I don't think she is.
 Q. Okay. So is Jean-Luc Bernell married; to your knowledge?
 A. I don't know, ma'am.
 Q. I think I must have gotten confused because we were talking about the picture in the house of the little girl who is lifting up her skirt or her underpants, I'd forgotten what it was.
 A. Yes, ma'am.
 MR. CRITTON: Form.
 BY MS. EZELL:
 Q. And I thought you said that that was Jean-Luc's child.
 A. No, ma'am, she is Mrs. Eva.
 Q. Eva's child?
 A. Yes, ma'am.
 Q. And she is Jeffrey Epstein's Goddaughter?
 A. Yes, ma'am.
 Q. Do you know where she and her mother live?
 A. They live in Manhattan.
 MR. CRITTON: Form.

1 BY MS. EZELL:
 2 Q. Did they ever visit Mr. Epstein at the
 3 home when you were there?
 4 A. Yes, ma'am.
 5 Q. How old was the little girl at that time?
 6 A. Eight years old.
 7 Q. Did the girl's father come to visit as
 8 well?
 9 A. Yes, ma'am.
 10 Q. And do you remember his name?
 11 A. No, ma'am.
 12 Q. Do you remember hearing anything about
 13 what he does for a living?
 14 A. No, ma'am.
 15 Q. Can you describe him?
 16 A. Tall, American born, I will say 50 years
 17 old.
 18 Q. What color hair did he have?
 19 A. At that time it was black with a few
 20 white hairs.
 21 Q. Were there drawings of nude women in the
 22 house?
 23 A. No, ma'am.
 24 Q. Were there paintings of nude women in the
 25 house?

1 A. Yes, ma'am.
 2 Q. Did any of those appear to be
 3 Ms. Maxwell?
 4 A. Yes, ma'am.
 5 Q. You mentioned that Louella who was still
 6 working there when you left --
 7 A. Yes, ma'am.
 8 Q. -- was a very religious woman --
 9 A. Yes, ma'am.
 10 Q. -- and would sometimes be upset about
 11 seeing pictures of nude girls or having to pick up
 12 sex toys, et cetera.
 13 MR. CRITTON: Form.
 14 THE WITNESS: Yes, ma'am.
 15 BY MS. EZELL:
 16 Q. And you said that you remembered her
 17 crying because there was a picture of the Pope
 18 next to a picture of a naked girl.
 19 MR. CRITTON: Form.
 20 THE WITNESS: Yes, ma'am.
 21 BY MS. EZELL:
 22 Q. Do you know who that naked girl was?
 23 A. I don't remember, ma'am.
 24 Q. I believe David Copperfield's name came
 25 up in the last deposition as someone who would

AO 91 (Rev. 5/85) Criminal Complaint AUSA VILLAFANA

United States District Court

SOUTHERN DISTRICT OF FLORIDA

FILED by [Signature] D.C.
DEC - 1 2009
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

vs.

CASE NUMBER: 09-8308-LRJ

ALFREDO RODRIGUEZ,

Defendant.

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

From at least as early as January 18, 2007, through on or about November 3, 2009, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

ALFREDO RODRIGUEZ,

did corruptly conceal a record, document, or other object, with the intent to impair the object's availability for use in an official proceeding and otherwise corruptly obstructed or impeded an official proceeding, in violation of Title 18, United States Code, Section 1512(c).

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this Complaint is based on the following facts:

Please see attached Affidavit

Continued on the attached and made a part hereof.

[Signature]
Christina J. Pryor, Special Agent
Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence, upon my finding of probable cause.

December 1, 2009 at West Palm Beach, Florida
Date City and State

LINNEA R. JOHNSON
UNITED STATES MAGISTRATE JUDGE

[Signature]
Signature of Judicial Officer

EXHIBIT
C

3

AFFIDAVIT

I, Christina J. Pryor, being duly sworn, do state and attest as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed for three (3) months. I am currently assigned to the Safe Streets Task Force, Miami Field Division, FBI Squad PB-2. Prior to joining the Miami Field Division, I attended the FBI Academy in Quantico, Virginia, for five (5) months where I received training in federal criminal laws and investigation techniques, including the laws related to obstruction of justice.

2. This affidavit is based upon my own personal knowledge of the facts and circumstances surrounding the investigation, and information provided to me by other law enforcement officers. This affidavit does not purport to contain all the information known to me about this case but addresses only that information necessary to support a finding of probable cause for the issuance of a criminal complaint charging Alfredo Rodriguez with obstruction of official proceedings, in violation of Title 18, United States Code, Section 1512(c).

3. On October 27, 2009, agents of the FBI met with and interviewed a cooperating witness ("CW"). The CW reported that, while conducting discovery in a pending civil case before the United States District Court for the Southern District of Florida, he came into contact with Alfredo Rodriguez ("Rodriguez"), who was a subpoenaed witness in the civil case.

4. Rodriguez had been interviewed by FBI agents on January 18, 2007, in connection with a federal criminal investigation into the sexual exploitation of minors. Prior

to being interviewed by FBI, Rodriguez had also been contacted and interviewed by local police detectives, and had been asked to produce documents related to the criminal investigation. The civil litigation involving the CW related to civil damages claims made by victims of the criminal activity that formed the basis of the state and federal criminal investigations.

5. The CW explained to agents that Rodriguez had been deposed under oath on two occasions. The first deposition occurred on July 27, 2009, and the second deposition was conducted on August 9, 2009. In connection with those depositions, Rodriguez was served with a subpoena duces tecum that called for the production of several types of documentary evidence. The CW was present for both depositions and Rodriguez testified that he had no documents responsive to the subpoena duces tecum.

6. In August 2009, after the conclusion of the second deposition, the CW received a phone call from Rodriguez. Rodriguez informed the CW that he had additional information that he had not previously disclosed to any law enforcement agency or any of the civil attorneys. Rodriguez described the information as, the Holy Grail or Golden Nugget and explained that he had compiled lists of additional victims in the case and their contact information. Rodriguez explained that the information contained hundreds of additional victims and their phone numbers from diverse geographic locations, including New York, New Mexico, and Paris, France.

7. Rodriguez asked the CW to pay him \$50,000.00 and, in return, Rodriguez would turn over the documents relating to the victims. In his initial and subsequent

communications with Rodriguez, the CW explained to Rodriguez that he was under subpoena to turn over such information and that it would be illegal for Rodriguez to demand money for turning over the information. Rodriguez persisted that he would only turn over the information in his possession in exchange for \$50,000.00.

8. On October 28, 2009, in a consensually-monitored phone call, the CW telephoned Rodriguez. Rodriguez again indicated that he would not turn over the information relating to the additional victims without monetary compensation. Rodriguez was told that an associate of the CW would be in touch with him regarding the information and exchange. The associate that the CW referred to was, in fact, an undercover employee (UCE) of the FBI.

9. On October 29, 2009, the FBI UCE contacted Rodriguez via telephone. Rodriguez again explained that he would only turn over the information in exchange for monetary compensation. The UCE advised Rodriguez that it would take several days to acquire the funds and that once the funds were obtained, he/she would contact Rodriguez. During the conversation, Rodriguez admitted that he knew that the information was relevant to the FBI's criminal investigation and was called for by the investigation. Rodriguez explained that he had not turned over the information to the FBI because: (1) it was his "property" and he should be compensated for it; and (2) he was afraid that the target of the investigation would make him "disappear" or otherwise harm him, and the information was his "insurance policy."

10. On November 2, 2009, the UCE made contact with Rodriguez via telephone.

In that conversation, Rodriguez and the UCE continued the discussion regarding the purchase of the documents and scheduled a meeting for the following day.

11. On November 3, 2009, Rodriguez met with the UCE at a predetermined location. During the meeting, Rodriguez produced a small bound book and several sheets of legal pad paper containing hand written notes. Rodriguez explained that he had taken the bound book from his former employer's residence while employed there in 2004 to 2005 and that the book had been created by persons working for his former employer. Rodriguez discussed in detail the information contained within the book, and identified important information to the UCE. In addition, Rodriguez admitted he had previously lied to FBI. Rodriguez asked the UCE about the \$50,000.00, took possession of the money, and began counting it.

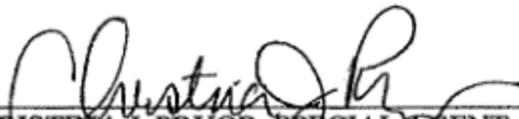
12. Rodriguez was then detained for Obstruction of Official Proceedings, Title 18, U.S. Code, Section 1512(c), and questioned. After *Miranda* warnings were administered by agents, Rodriguez waived his rights and signed a written waiver of those rights. Rodriguez admitted that he had the documents and book in his possession and had never turned them over to local law enforcement or the FBI. In addition, Rodriguez advised he had witnessed nude girls whom he believed were underage at the pool area of his former employer's home, knew that his former employer was engaging in sexual contact with underage girls, and had viewed pornographic images of underage girls on computers in his employer's home. Rodriguez was then released from custody for further investigation.

13. The items that Rodriguez had attempted to sell to the UC for \$50,000.00

were reviewed by an agent familiar with the underlying criminal investigation. As Rodriguez had described, the items contained information material to the underlying investigation that would have been extremely useful in investigating and prosecuting the case, including the names and contact information of material witnesses and additional victims. Had those items been produced in response to the inquiries of the state law enforcement officers or the FBI Special Agents, their contents would have been presented to the federal grand jury.

Based upon the foregoing, your affiant believes that probable cause exists to believe that, from at least as early as January 18, 2007 through on or about November 3, 2009, in Palm Beach County, in the Southern District of Florida, and elsewhere, Alfredo Rodriguez did corruptly conceal a record, document, or other object, with the intent to impair the object's availability for use in an official proceeding and otherwise corruptly obstructed or impeded an official proceeding, in violation of Title 18, United States Code, Section 1512(c).

FURTHER YOUR AFFIANT SAYETH NAUGHT.


CHRISTINA J. PRYOR, SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Sworn to and subscribed before me
this 1 day of December, 2009.


LINNEA R. JOHNSON
UNITED STATES MAGISTRATE JUDGE

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

Case No. 09-8308-LRJ

UNITED STATES OF AMERICA

vs.

ALFREDO RODRIGUEZ,

Defendant.

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 14, 2003? Yes No
2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to September 1, 2007? Yes No

Respectfully submitted,

JEFFREY H. SLOMAN
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By:



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