

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION – FIRST DEPARTMENT

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THE PEOPLE OF THE STATE OF NEW YORK,	:	App. Div. No. 6081
	:	
Respondent,	:	SUPPLEMENTAL AFFIRMATION OF
	:	JOHN M. BROWNING IN FURTHER
- against -	:	SUPPORT OF MOTION TO UNSEAL
	:	
JEFFREY E. EPSTEIN,	:	
	:	On Appeal from New York Supreme Court,
Defendant-Appellant.	:	New York County, Index No. 30129/10
	:	(Pickholz, J.)
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John M. Browning, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following under penalties of perjury:

1. I am an associate of Davis Wright Tremaine LLP, attorneys for non-party movant NYP Holdings, Inc., publisher of the New York Post (the “Post”) and I submit this supplemental affirmation in further support of the Post’s motion to unseal the briefs filed by the parties in the above-captioned appeal.

2. The grounds for unsealing the appeal briefs in this action are set forth in the affirmation of John M. Browning dated January 15, 2019, the accompanying memorandum of law and the notice of motion (the “Motion”). I submit this supplemental affirmation in response to the Affirmation in Response to Non-Party Motion to Unseal Appellate Briefs filed by Assistant District Attorney Hilary Hassler dated January 18, 2019 (the “Response”) and to state additional facts that are relevant to the Post’s motion, of which I have personal knowledge. For the reasons set forth below, the Post has mooted all of Ms. Hassler’s objections and its Motion should be granted accordingly.

3. In its Response, the Office of the District Attorney of New York County (the “Manhattan DA”) faulted the Post for failing to “furnish the requisite notice to either the appropriate prosecuting agencies or to the victims themselves.” Response ¶ 4. The Manhattan DA also asserted that “the prosecuting agencies ... [must] be given an opportunity to be heard” before the Court can grant the Post’s Motion. *Id.* ¶ 5

4. As the Post pointed out in its motion, however, it notified both the U.S. Attorney in the Southern District of Florida and the Palm Beach County State Attorney’s Office (*i.e.*, the “prosecuting agencies”) prior to filing the Motion and served both offices with copies of the Motion at the time of filing. Neither office has ever objected to the Motion. Moreover, the Post was unable to directly provide notice of its Motion to the victims because their identities remain under seal and are hence unknown to the Post. To be clear, the Post does not seek the identities of Mr. Epstein’s victims in its motion and has consistently taken the position that the Manhattan DA can redact victim names and identifying information before producing the requested appeal briefs.

5. On January 30, 2019, I spoke with Assistant District Attorney Hassler on the telephone and she reiterated the New York DA’s position that the Post is supposedly required to notify Mr. Epstein’s victims before the Post’s Motion could be granted, even though the Post does *not* know who those victims were. Ms. Hassler further stated that, if the Post was able to notify the victims, the Manhattan DA would not oppose the Post’s filing of a reply affirmation setting forth relevant facts.

6. On January 31, 2019, I spoke with the Palm Beach County State Attorney’s Office, who told me that their access department was handling the matter and would return my call. I never received a return call. And we have never received any opposition or objection to

our Motion from the Palm Beach County State Attorney, despite the fact that we served them with the Motion more than a month ago.

7. On January 31, 2019, I also spoke with Dexter Lee, who is a staff attorney in the Office of the U.S. Attorney in the Southern District of Florida. Mr. Lee informed me that his office had not taken a position on the Motion and was unsure whether he was able to notify Mr. Epstein's victims on the Post's behalf, but would look into it.

8. On February 5, 2019, Mr. Lee sent an email to three attorneys to place them on notice of the Post's motion to unseal the appeal briefs: Robert Josefsberg, Brad Edwards and Paul Cassell. Mr. Lee selected these three attorneys because they currently represent victims of Mr. Epstein's sex crimes in various proceedings. In his email, Mr. Lee notified the attorneys that the Post had moved to unseal the appellate briefs and attached copies of the Post's motion papers. Mr. Lee also provided contact details for the Post's attorneys, including my name, email address, telephone number and the name of my firm.

9. During a follow up call I had with Mr. Lee on March 1, 2019, Mr. Lee informed me that he had notified attorneys representing Mr. Epstein's victims of the Post's motion, but had received no substantive response from those attorneys or the victims themselves. During that call, Mr. Lee also confirmed that the U.S. Government takes no position on our Motion to unseal.

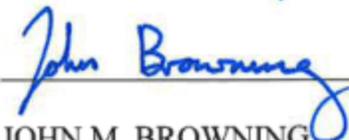
10. One month later after Mr. Lee sent his notification emails, the Post has not received any communications from any of Mr. Epstein's victims or their attorneys.

11. In short, even though the Post's Motion to unseal does *not* seek the names of Mr. Epstein's victims (or any identifying information), the Post has done everything in its power to notify Mr. Epstein's victims and ascertain the position of the Florida prosecutors. Having been

given ample opportunity to oppose the Motion, neither the victims nor the Florida prosecutors have lodged any objection to the Post's request for the appellate briefs to be released with victim names and identifying information redacted. Indeed, the Manhattan DA is the only party to object. The Post has now mooted all of these objections by notifying Mr. Epstein's victims and confirming that the Florida prosecutors do not oppose the Motion.

12. It bears repeating that the Post maintains its position that it has been forced to jump through unnecessary procedural hoops. From the very beginning, the Post has made clear that it does not seek victim's names and has also stressed that the prosecuting agencies (including the Manhattan DA) should be responsible for notifying victims, since their names remain unknown to the Post. In any event, since the Post has unquestionably resolved the Manhattan DA's concerns and no other party objects, the Court should grant the Post's Motion and order the Manhattan DA to produce the requested briefs with only the names and identifying features of the victims redacted.

Dated: New York, New York
March 12, 2019


JOHN M. BROWNING

SUPREME COURT, APPELLATE DIVISION
FIRST DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

- against -

JEFFREY E. EPSTEIN,

Defendant-Appellant.

App. Div. No. 6081

On Appeal from New York
Supreme Court, New York
County, Index No. 30129/10
(Pickholz, J.)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JOHN BROWNING, being duly sworn, states, I am not a party to the action, am over 18 years of age and reside in Kings County, New York. On March 12, 2019, I caused to be served a true and correct copy of the annexed by mail in the custody of Federal Express directed to the following:

Martin Weinberg
20 Park Place, Suite 1000
Boston, MA 02116

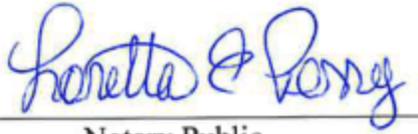
Hilary Hassler
Assistant District Attorney – New York County
One Hogan Place
New York, New York 10013

David Aronberg
State Attorney
15th Judicial Circuit – Palm Beach County Florida
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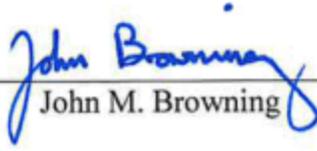
Dexter Lee
Assistant U.S. Attorney
Southern District of Florida
99 █. 4th Street
Miami, FL 33132

Dated: New York, New York
March 15, 2019

Sworn to before me this
15th day of March, 2019



Notary Public

By: 

John M. Browning

LORETTA E. PERRY
Notary Public, State of New York
No. 24-4931617
Qualified in Kings County
Commission Expires August 1, 2022