

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES
_____ /

**SUPPLEMENTAL AUTHORITY IN SUPPORT OF
JANE DOE #1 AND JANE DOE #2'S RESPONSE TO SUPPLEMENTAL BRIEFING IN
SUPPORT OF MOTION TO INTERVENE OF ROY BLACK, MARTIN WEINBERG,
AND JAY LEFKOWITZ**

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as “the victims”), by and through undersigned counsel, to provide supplemental authority in support of their response in opposition (DE 167) to the motion for protective orders filed by defense attorneys Roy Black, Martin Weinberg, and Jay Lefkowitz and intervenor Jeffrey Epstein (DE 160, DE 161, and DE 162) (also called “supplemental briefing”).

At issue in these pleadings is whether the victims can obtain discovery of relevant correspondence between Epstein’s counsel and the U.S. Attorney’s Office arranging a highly unusual and secretive non-prosecution agreement – an agreement that the victims allege was negotiated and entered in violation of their rights under the Crime Victims’ Rights Act. The defense attorneys contend that this correspondence is somehow confidential material, an inaccurate claim that the victims have already responded to at length. *See, e.g.*, Jane Doe #1 and Jane Doe #2’s Response to Supplemental Briefing in Support of Motion to Intervene of Roy Black, Martin Weinberg, and Jay Lefkowitz (DE 167).

The victims now wish to provide the Court with supplemental authority in support of their position – specifically, a statement from *Epstein's own attorneys* that correspondence between a Government attorney and a private party is not confidential material under any theory. Epstein has pending a civil lawsuit against the victim's attorney, Brad Edwards. *See Epstein v. Edwards*, Case NO. 502009CA040800XXXXMBAG (15th Cir. Court for Palm Beach County, FL). The lawsuit (frivolously) alleges that Edwards lacked a valid basis for pursuing claims for his victim clients. Edwards has a malicious prosecution counterclaim lodged.

Recently in that case, a discovery dispute arose. Epstein's attorney in that civil matter (Tonja Haddad Coleman) sent a communication to Edwards's attorney in that matter (Jack Scarola) containing an admission that communications for Government entities are matters of public record and thus are not privileged under any theory:

Jack:

Thank you for your response. I am sure you are aware that the law permits you to respond to a discovery request by stating that "without waiving the objection" you are producing the documents. However, because I have yet to see the documents, or your privilege log, I cannot possibly agree to anything, much less concede a privilege, as *it is my understanding that some of the items to which you are objecting, for example, are electronic communications to/from government entities which, as Mr. Edwards is likely aware from his days as a government attorney, **are legally a matter of public record, will not, in fact, be privileged under any theory.*** . . .

E-mail from Tonja Haddad Coleman to Jack Scarola, May 8, 2012 (emphasis added). (A copy of this communication is attached to this pleading as Exhibit "A").

The victims respectfully submit that this is an admission by Epstein's attorneys that reinforces the conclusion that the victims are entitled to review the U.S. Attorney's

correspondence in this case. It clearly shows that Epstein's attorneys do not believe, despite what they have told this court, that emails with the government are privileged under any theory.

DATED: May 21, 2012

Respectfully Submitted,

s/ Bradley J. Edwards
Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Telephone (954) 524-2820
Facsimile (954) 524-2822
Florida Bar No.: 542075
E-mail: brad@pathtojustice.com

and

Paul G. Cassell
Pro Hac Vice
S.J. Quinney College of Law at the
University of Utah
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

Attorneys for Jane Doe #1 and Jane Doe #2

CERTIFICATE OF SERVICE

The foregoing document was served on May 21, 2012, on the following using the Court's

CM/ECF system:

Dexter Lee
A. Marie Villafaña
Assistant U.S. Attorneys
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Fax: (561) 820-8777
E-mail: Dexter.Lee@usdoj.gov
E-mail: ann.marie.c.villafana@usdoj.gov
Attorneys for the Government

Roy Black, Esq.
Jackie Perczek, Esq.
Black, Srebnick, Kornspan & Stumpf, P.A.
201 South Biscayne Boulevard
Suite 1300
Miami, FL 33131
(305) 37106421
(305) 358-2006