

3. The Prosecution filed its Notice of Intention Not to Seek the Death Penalty on December 5, 2008. On December 11, 2008 Caylee Anthony's remains were discovered. On April 13, 2009 the Prosecution filed a Notice of Intent to Seek the Death Penalty.

4. The Prosecution waited four months after the discovery of the remains to change course and seek the death penalty. Further, no evidence uncovered in connection with the remains changed the nature of the crime. *See* accompanying Memorandum of Law.

5. On March 12, 2009 a hearing was held on the Prosecution's Motion to Determine Potential Conflict of Interest. At that hearing, the Prosecution learned exactly how much money Casey Anthony had available to fund her defense. The Prosecution knew that it was insufficient to fund a death penalty case. *See* accompanying Memorandum of Law.

6. Specifically, the Prosecution knew that by seeking the death penalty, under Florida Law Casey Anthony would have to hire counsel in addition to her retained counsel Jose Baez, because he did not meet the requirements set out in FRCP 3.112. The Prosecution knew that this would financially break the defense. *See* accompanying Memorandum of Law.

7. Furthermore, the Prosecution are experienced practitioners in the area of death penalty prosecution. They were therefore, aware of the tremendous costs to the defendant in defending a death penalty case. *See* accompanying Memorandum of Law.

8. Additional circumstantial evidence exists to support the defendant's claim.


9. Therefore, it is clear that in deciding to pursue the death penalty the Prosecution exercised its discretion for the impermissible purpose of attempting to prevent Miss Anthony from exercising her constitutional right to counsel of choice. *See* accompanying Memorandum of Law.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests this


court to:

- a. Order the State to file a response motion and memorandum of law within thirty days of the filing of this motion and accompanying memorandum of law;
- b. Allow the defense ten business days from the State's filing of its responsive motion and memorandum of law to file a reply motion and memorandum of law;
- c. Set a hearing date, at which time this Honorable Court may hear arguments relating to the defense and prosecution's motions;
- d. Allow an *in camera*, sealed hearing at which time this Honorable Court may hear additional evidence from the defense in support of its motion;
- e. Preclude the Prosecution from seeking the death penalty

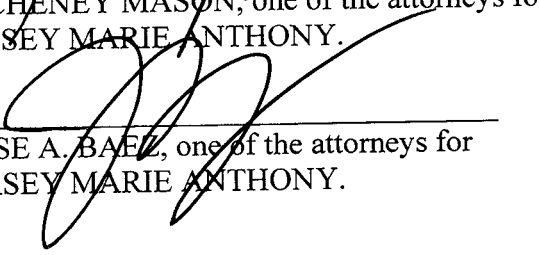
Respectfully submitted,



ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.



J. CHENEY MASON, one of the attorneys for
CASEY MARIE ANTHONY.



JOSE A. BAEZ, one of the attorneys for
CASEY MARIE ANTHONY.

Dated: 4/28, 2010

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Exhibit A:
State's Notice of Intention Not to Seek the Death Penalty

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO: 48-2008-CF-015606-O

Plaintiff,

DIVISION: 16

vs.

CASEY MARIE ANTHONY

Defendant.
_____ /

NOTICE OF INTENTION NOT TO SEEK THE DEATH PENALTY

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney, and gives notice that after due consideration of the facts and law applicable to this case, it is not in the best interest of the people of the State of Florida to pursue the Death Penalty as a potential sentence. Therefore, the State of Florida will not be seeking the death penalty as to CASEY MARIE ANTHONY.

I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE OF INTENT NOT TO SEEK THE PENALTY OF DEATH has been furnished to the Defendant, Casey Marie Anthony, 03/19/1986, W/F, at Orange County Jail, Cell F-DORML-12, Post Office Box 4970, Orlando, FL 32802-4970, and to Jose A. Baez, Counsel for Defendant, 522 Simpson Road, Kissimmee, FL 34744, on this _____ day of December, 2008.

Linda Drane Burdick
Assistant State Attorney
Florida Bar No.: 826928
415 N. Orange Avenue, P.O. Box 1673
Orlando, FL 32802
(407)836-2402

Exhibit B:
State's Motion to Determine Potential Conflict of Interest

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA

STATE OF FLORIDA
Plaintiff,

CASE NO: 48-2008-CF-015606-0

DIVISION: 16

vs.

CASEY MARIE ANTHONY
Defendant.

MOTION TO DETERMINE POTENTIAL CONFLICT OF INTEREST AND WAIVER

COMES NOW the State of Florida and moves this court to make inquiry to determine the existence of any potential conflict of interest and establish the Defendants knowledge of and waiver of any such potential conflict of interest. As grounds therefore the State would request the court to take Judicial Notice of the following facts as established by prior proceedings before this Court or matter contained in the Court's file.

1. The Defendant was arrested on July 16, 2008 for charges that would later be included in CF08-10925.
2. The Defendant later filed a Motion to Set Bond that was heard before this court on July 22, 2008.
3. At that hearing, the court heard extensive testimony as to financial status of the Defendant and her parents George and Cindy Anthony, which established little, if any, net worth on the part of George and Cindy Anthony and none on the part of the Defendant.
4. In the months since that hearing, according to pleadings, approximately eight different lawyers have been retained to represent the Defendant in different aspects of this case and numerous experts have been announced as having been retained in this matter.
5. On October 14 2008 the Defendant was indicted by the Grand Jury of Orange County Florida on the charges in the instant case.

Based upon the forgoing facts, logic dictates that certain conclusions must be drawn. First and foremost among those conclusions is that the Defendant's seeming conversion from pauper to princess did not come from the sale of some tangible asset available to her prior to her initial arrest on charges related to this case. The only asset that appears available to the Defendant is her story or otherwise valueless items, such as photographs or video tapes, which have value only because of her story. The second conclusion that logic dictates is that, based upon the Defendant's present circumstances, it would be virtually impossible for her to be personally managing those assets. The only person who appears to be in a position to do so is her counsel Jose Baez.


Such precarious financial relationships are fraught with potential for claims of conflict of interest. Hypothetically, Mr. Baez' retainer agreement establishes as his payment for services and fees, the rights to sell some aspect of the Defendant's "story". Since the value of her "story" may change based upon the outcome of this case, such an arrangement could easily be argued by the Defendant, in the inevitable post conviction motion, as giving the attorney an incentive to advise his client in a manner that increased the value of the property he held, as opposed to advising her as to the course that was in her best interest. This case would not be the first to entertain such claims. See Brown v. State 894 So. 2d 137 (Fla. 2004) and Neeley v. State 642 So. 2d 494 (Ala. 1993).

The State is not requesting that, based upon the findings of this inquiry, the court block counsel's representation of the Defendant. We have no interest in interfering with the Defendant's right to counsel of her choice. It is important at this juncture that the court establish on the record the nature of the financial arrangements, the exact source of funds, the Defendant's knowledge of those facts, the existence of any potential conflict of interest, and the Defendant's knowing and intelligent waiver of any such conflict. To fail to make this inquiry at this time is to invite future claims, whether spurious or not, of conflict of interest. The resulting lengthy and costly hearing years down the line, when memories and loyalties have changed, is an unnecessary risk that can be avoided by a prompt and thorough inquiry now.

Should the Court be concerned that the matters to be the subject of this inquiry might be covered under the umbrella of attorney client privilege, please see U. S. v. Horn, 976 F. 2d 1314 (9th Cir. 1992); Reiserer v. U.S., 479 F. 3d 1106 (9th Cir. 2006); Finol v. Finol, 869 So.2d 666 (4th DCA 2004), Brown Distributing Company. v. Marcel, 866 So.2d 160 (4th DCA 2004).

Therefore, the State would request that the Court set a hearing. The State has no objection to an in camera hearing with only the State and the Court present should the Defendant so request. At that hearing, counsel for the Defendant should be ordered to produce the following items: 1) Any retainer agreements or correspondence that references payment, promise, anticipation of the transfer of anything of value to counsel for the Defendant from the Defendant; 2) Any document or notation that references the transfer of any literary, publication or licensing rights of any kind related to this case including but not limited to book, movie, video or photographs; 3) Any document or notation that references payment, promise, anticipation of the transfer of anything of value to counsel for the Defendant from any source other than the Defendant; 4) all records of deposits made to the business, trust, or personal accounts of counsel for the Defendant in relation to this case. The State has no objection to an appropriate order limiting the use of such documents for other purposes. In addition to the production of the aforementioned, the Court should order that counsel for the Defendant and the Defendant answer questions propounded by the Court and the State as to these matters. Once the inquiry is completed, the Court should explain any potential conflict of interest issues to the Defendant and assure her complete understanding of and waiver of any such conflict.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Jose A. Baez, 522 Simpson Road, Kissimmee, FL 34744 on this 9th day of March, 2009.



Jeffrey L. Ashton
Assistant State Attorney
Florida Bar # 318337
415 N. Orange Avenue, P.O. Box 1673
Suite 400
Orlando, FL 32802

Exhibit C:
Defense Objection and Motion to Strike the State's Motion to Determine
Potential Conflict of Interest

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 2008-CF-015806-O
DIVISION: 16

JUDGE: STAN STRICKLAND

CASEY MARIE ANTHONY,

Defendant.

**OBJECTION AND MOTION TO STRIKE THE STATE'S MOTION TO DETERMINE
POTENTIAL CONFLICT OF INTEREST**

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through undersigned counsel, and hereby files this objection to the State's *Motion to Determine Potential Conflict of Interest and Waiver* and states the following in support thereof:

1. On March 9, 2009, the State filed a Motion to Determine Potential Conflict of Interest and Waiver.
2. The State files this objection among its own speculation, possibly based on rumors of tabloid news broadcasts.
3. This Honorable Court has previously cautioned all parties from relying on news reports as a basis for its motions.
4. On the eve of a hearing on a Motion for Sanctions, against the State, the Defense questions the timing of the filing of this motion.
5. This motion also comes on the brink of releasing discovery of which Defense counsel was videotaped by law enforcement meeting with his client.
6. The Defense has raised issues with this Honorable Court before, regarding the State's interference with the Defendant's Constitutional Right to counsel.
7. It is the Defense's position that this motion has been filed solely to harass and embarrass the Defendant's counsel, and to possibly deflect attention away from the pending Motion for Sanctions as well as the future motions of misconduct stemming from the

- release of discovery which involves the unauthorized videotaping of the Defendant's counsel, while meeting with the Defendant.
8. The undersigned counsel wishes to be clear and end all speculation before this Honorable Court. The State completely speculates by stating "*Hypothetically, Mr. Baez' retainer agreement establishes as his payment for services and fees, the rights to sell some aspect of the Defendant's 'story'.*"
 9. The Defense would not like this Honorable Court to have to engage in matters of speculation. The undersigned's Retainer Agreement does not contain any clauses allowing him financial gain based on selling the rights to Ms. Casey Anthony's "story", nor are there any other instruments giving Defense counsel or any third party the rights to Ms. Casey Anthony's "story".
 10. The undersigned counsel can represent to the court that it has no conflicts of interest.

WHEREFORE, Defendant, CASEY MARIE ANTHONY, by and through undersigned counsel, prays that this Honorable Court enter an order requiring the State to produce any evidence in which the State has regarding any conflicts of interest. In the event that the State cannot produce any evidence other than mere speculation, the Defense moves to strike said motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801, by facsimile delivery on this _____ day of March, 2009.

JOSE A. BAEZ, ESQUIRE
FL Bar No.: 0013232
JOSE L. GARCIA, ESQUIRE
FL Bar No.: 0026020
THE BAEZ LAW FIRM
522 Simpson Road
Kissimmee, Florida 34744
Tel.: (407) 705-2626
Fax: (407) 705-2625

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 48-2008-CF-015606-O
DIVISION: 16

JUDGE: STAN STRICKLAND

CASEY MARIE ANTHONY,

Defendant.

SWORN AFFIDAVIT

1. I, Casey Marie Anthony, have read the Prosecutors' motion that was filed and dated March 9th, 2009.
2. I, Casey Marie Anthony, have retained Jose A. Baez, Esq., as my attorney for the above-styled cause.
3. I signed and executed a Retainer Agreement for my attorney's services.
4. Said Retainer Agreement does not contain any clauses or parts that allow or entitle him to any rights that would allow him to sell my "story", or that of my daughter, Caylee Marie Anthony.
5. There are no other Agreements selling my "story".
6. I am executing this affidavit voluntarily and of my own free will without coercion or undue pressure from anyone.

7. I believe that Mr. Highten is angry because I have refused to take a plea agreement for a crime that I DID NOT COMMIT.

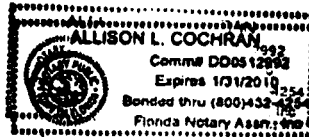
03/10/2009
Date

CMC
Casey Marie Anthony, Affiant

STATE OF FLORIDA
COUNTY OF ORANGE

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 10 day of March, 2009.

Allison L. Cochran
Notary Public



Personally known to me ✓

Produced identification _____ Type of identification produced _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S. Mail and or Fax/hand delivered to the Office of the State Attorney at 415 North Orange Avenue, Orlando, Florida 32801, this _____ day of March, 2009.

JOSE A. BAEZ, ESQUIRE

FL Bar No.: 0013232

JOSE L. GARCIA, ESQUIRE

FL Bar No.: 0026020

THE BAEZ LAW FIRM

522 Simpson Road

Kissimmee, Florida 34744

Tel.: (407) 705-2626

Fax: (407) 705-2625

Exhibit D:
State's Notice of Intent to Seek the Penalty of Death

NOTICE OF INTENT TO SEEK THE PENALTY OF DEATH

THE STATE OF FLORIDA hereby notices the Defendant and the Court that, based upon additional information that has become available since the waiver of intent to seek the penalty of death filed on December 5, 2008, sufficient aggravating circumstances exist to justify the imposition of the Death Penalty pursuant to Florida Statute 921.141, as to this Defendant in this case. Therefore, the State will be seeking the imposition of the Death Penalty should the Defendant be convicted in the above referenced matter.

I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE OF INTENT TO SEEK THE PENALTY OF DEATH has been furnished to the Defendant, 03/19/1986, W/F at Orange County Jail, Cell F-DORML-22, Post Office Box 4970, Orlando, FL 32802-4970, and to Jose A. Baez, Counsel for Defendant, 522 Simpson Road, Kissimmee, FL 34744, on this 13th day of April, 2009.

LAWSON I. LAMAR
STATE ATTORNEY

Exhibit E:

Letter from Jose Baez to Linda Drane Burdick (Apr. 16, 2009)



April 16, 2009

Linda Drane Burdick, Esq.
c/o Office of the State Attorney
415 N. Orange Ave.
Orlando, FL 32801

Re: State of Florida v. Casey Marie Anthony
Case No.: 48-2008-CF-0015606-O

Dear Ms. Burdick,

I am in receipt of your *Notice of Intent to Seek the Penalty of Death* that your office filed on April 13th, 2009.

In said Notice, you mention that “..based upon additional information that has become available since the waiver of intent to seek the penalty of death filed on December 5, 2008, sufficient aggravating circumstances exist to justify the imposition of the Death Penalty..”.

Due to the seriousness of this matter, please send us immediately the copies of the “additional proof” you possess that has become available since December 5th, 2008. Taking into consideration that this is now a Death Penalty case, I would ask that the State Attorney’s Office make more of an effort in diligently providing copies of all of the Discovery to the Defense. By the way, can I have a copy of the autopsy report on this Death Penalty case?

Sincerely,

A handwritten signature in black ink, appearing to be "Jose A. Baez", is written over the word "Sincerely,". The signature is fluid and cursive.

Jose A. Baez, Esq.

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Tel.: (407) 705-2626 · Fax: (407) 705-2625
Website: www.BaezLawFirm.com