

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

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 48-2008-CF-0015606-O
Chief Judge: Belvin Perry, Jr.

v.

CASEY MARIE ANTHONY,
Defendant.

**DEFENDANT'S MOTION FOR RECONSIDERATION OF THE COURT'S ORDER
GRANTING STATE'S MOTION FOR SANCTIONS/MOTION TO COMPEL
AND REQUEST TO VACATE FINDING OF CONTEMPT**

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her undersigned attorney, and, pursuant to Florida Judicial Administration Rules 2.330(h), moves this Court for Reconsideration of the Court's Order Granting State's Motion for Sanctions/Motion to Compel, and Requests this Court to Vacate Findings of Contempt, and shows:

1. On January 6, 2011 this Court entered its Order Granting the State's Motion for Sanctions/Motion to Compel. This Motion for Reconsideration is timely.

2. The issue boiling over in this case is one dealing with discovery and alleged violations thereof. The saga begins as follows:

a. The prosecution filed a Motion to Compel Additional Discovery under date of November 18, 2010 (subsequently referred to by this Court as November 19, 2010). A copy of said "Motion to Compel Additional Discovery" is attached hereto as Exhibit "A".

b. This Court, after hearing, entered an Order on December 3, 2010, *nunc pro tunc* to November 29, 2010, addressing the State's Motion to Compel. In said Order, the Court **denied** paragraphs one, two, three, and four of the State's Motion, and granted items five and six of the State's Motion. The

relevant portions of said Order, pages one and two of five, are attached hereto as Exhibit "B".

- c. This Order (Exhibit "B") additionally directed the Defendant to provide to the State a list of Defendant's experts "...that shall include the subject matter as to what the expert will testify to and the area of expertise for each expert". This last provision by the Court's Order was not requested by any papers filed by the prosecution, nor Notice for Hearing to such extent.
- d. Even granting the Order with unnoticed additional provisions, the Court did acknowledge "(with exception of any portions of said items that are work product)".
- e. Following the afore described Order (Exhibit "B"), the Defendant did provide to the State of Florida a complete list of experts, including their field of expertise and their contact addresses. Additionally, the Defendant went further than providing the State with a list of the experts and their subject matter by not only giving brief statements and reminding of prior communications and meetings, but invited the prosecution as follows: "If you have a question about any particular witness, just ask and I will be more than happy to answer it." See Exhibit "C" attached hereto (three pages).
- f. The prosecution (Mr. Ashton) responded on that same date asserting, "The Court's Order required you reveal the "substance of the testimony of the witness". Such representation is inaccurate. See Exhibit "B" which required the defense to "...include the subject matter as to what the experts will testify

to and the area of expertise for each expert”. See Exhibit “D” attached hereto. Subsequently, Mr. Ashton acknowledged (apparently) his own mistake by advising that the “subject matter” was what was ordered. See Exhibit “E” attached hereto.

3. Notwithstanding the foregoing obvious confusion as to this Court’s Order, and the invitation by the defense (Mr. Baez) to call with any questions, the prosecution failed to make any further inquiry, whatsoever, prior to filing the “Motion for Clarification/to Compel Compliance with Order for Additional Discovery”, the same being dated December 1, 2010. It is clear that, at this point, the defense was in, not just substantial, but full compliance with that which had previously been ordered by this Court.

4. A hearing was held to clarify what the Court intended and an Order entered on December 10, 2010. In this Order, the Court “found” that the Defendant did not comply with “the intent of the Order” and ordered that the Motion to Clarify filed by the State was granted, and then specified the five specific things that the defense was now being required to do. They are as follows:

- i. The experts’ Curriculum Vitae or qualifications of the experts;
- i. The experts’ field of expertise or medical specialty;
- ii. A statement of the specific subjects upon which extent the expert will testify and offer opinions;
- iii. The substance of the facts to which the experts’ expect to testify;
- iv. A summary of the experts’ opinions and the grounds for each of the opinions.

5. The Court further acknowledged that, with respect to two defense witnesses (Fairgrieve and Bock), the information was due by 12:00 p.m. on Tuesday, December 14, 2010. The

balance of the experts' information was due to be provided by 3:00 p.m. on Thursday, December 23, 2010.

6. In compliance with this Court's Order, counsel for the Defendant (Baez) and his office labored to provide all of the information requested. The documentation was approximately three hundred pages. Said defense wanted to fax the said documentation, but, due to the fact that it was approximately three hundred pages in length, the Clerk's office declined. As a result, Mr. William Slabaugh, Esq. of the Baez Law Firm drove from Kissimmee to Orlando in an effort to file the documentation before the deadline. He was thwarted by the Interstate 4 traffic, arriving at the Orange County Courthouse at two minutes after 5:00 p.m. on Tuesday evening the 14th of December of 2010. Mr. Slabaugh was doing his best to substantially comply with the deadline, despite its volume. Please see Affidavit of William Slabaugh attached hereto as Exhibit "F".

7. On the following morning, December 15, 2010, assistant to your undersigned counsel (Mason) did hand deliver the entire package to both the State Attorney's Office and to the Clerk of Court. Most importantly, this good faith performance included all of the documentation that was not due for another eight days (December 23, 2010).

8. The defense response to the "clarification" Order indeed substantially complied with each of the five provisions ordered by the Court.

9. Notwithstanding the aforesaid substantial compliance, and being mindful of the entitlement/obligation of the defense to protect privileged matters (work product privilege), the Defendant submits the following supplemental information as to each of the expert witnesses:

- a. As to Dr. Jane H. Bock, Forensic Botanists, the Defendant ratifies and adopts the prior disclosures from her, pursuant to the aforesaid response. Further,

the prosecution was provided with an Affidavit and photographs from Dr. Bock.

- b. Dr. Scott Fairgrieve. The defense adopts and ratifies the prior response as to Dr. Fairgrieve, again, in substantial compliance with the Court's Order. No additional report has been provided by Dr. Fairgrieve, whether by Affidavit, notes, or otherwise. His deposition has already been taken by the prosecution.
- c. Dr. Henry Lee. The response with respect to Dr. Henry Lee was also in substantial compliance, however, the Defendant supplements same by adding the following: During Dr. Lee's examination of the Pontiac Sunfire automobile, with CSI investigators of the Orange County Sheriff's Department, he found approximately seventeen additional hairs that had been previously undiscovered in the trunk of said automobile. Dr. Lee pointed out the discovery of said seventeen hairs to Orange County Sheriff's Office CSI investigators, who collected them and sent them to the FBI crime laboratories for examination. (It should be noted that none of the seventeen hairs tested positive for any decomposition.) At the deposition of CSI Bloise, he acknowledged this discovery by Dr. Lee and the subsequent handling of said evidence.

As a result of CSI Bloise acknowledging, under oath in his deposition testimony, that Dr. Lee did locate and point out said hairs, it is highly unlikely that Dr. Lee would be called upon or deemed necessary to testify in

this case. It may further be noted that Dr. Lee had sought access to the recovery sight on December 12, 2008, he was thwarted in the ability to potentially learn and subsequently testify to any other criminalistics.

- d. Dr. Werner Spitz. The defense acknowledges, reaffirms, adopts, and ratifies the prior disclosure with respect to Dr. Spitz. Nevertheless, in further good faith additional compliance, the defense shows that Dr. Spitz, if called to testify, would specifically additionally testify that the examination by Dr. Garavaglia was less than the appropriate standard for such medical examiner's protocol. Dr. Spitz would testify that the skull should have been opened by Dr. Garavaglia, which he did in the performance of his second autopsy. Dr. Spitz discovered that there was a deposit of dirt/mud on the inside of the cranium, on the left side, which had not been discovered by Dr. Garavaglia. Dr. Spitz would testify that that is material because it indicates that the remains had been laid on the left side in such a fashion as to allow the interior of the cranium to collect dirt/mud and, therefore, the body had not been left in an upright or straightforward position as has been claimed by investigators, as well as the experts for the prosecution. Accordingly, Dr. Spitz would be offering significant rebuttal testimony, not only to the protocol, but also the findings with respect to the remains of the child. Photographs of the findings of Dr. Spitz have previously been turned over to the prosecution confirming the foregoing.
- e. Dr. Kathy Reichs. Regarding Dr. Reichs, again, the defense did substantially

comply with the five provisions of the Court's Order. The response as filed had anticipated "...providing forthwith" the CV, however, it was received in time to be delivered with the rest of the discovery. Additionally, Dr. Reichs would testify that she agrees with the anthropologists of the State in that there was no evidence of ante-mortem (prior to death) trauma to Caylee Marie Anthony's remains. This would include, but not be limited to, such things as the absence of any forensic evidence of any weapon injury (gun, knife, club, or otherwise), no breaks or twists of the bones, or other trauma whatsoever. It is not anticipated that she would be required to provide other testimony, given the fact that the defense has taken the deposition testimony of the State's anthropologists and other experts. However, should such experts change or in any way deviate from their prior sworn testimony at the time of trial, then Dr. Reichs would likely be called as a potential rebuttal witness.

- f. Dr. Tim Huntington. The defense adopts, reiterates, and reaffirms the prior responses as to items one through five of Dr. Huntington. Additionally, the State of Florida has taken Dr. Huntington's deposition. Because of the requests of the prosecution, Dr. Huntington agreed and is imminently going to provide a report, which had not previously been deemed necessary or prepared.

Additionally, subsequent to the defense taking the deposition of the State's entomology expert, Dr. Haskill, prosecution has disclosed at Dr. Huntington's deposition, that additional evidence, resulting from some

vacuuming process, was sent to Dr. Haskill for further analysis, review, and potential further discovery. Not knowing what that evidence is or will reveal, the defense cannot further opine as to whether or not the new evidence would be relevant or material, and/or whether or not Dr. Huntington would be needed to testify with respect to such new evidence discovered by the prosecution and not yet disclosed.

- g. Dr. Kenneth Furton. Defendant adopts, ratifies, and reaffirms the responses in paragraphs one through five pursuant to the Court's Order as relate to Dr. Furton. The only exception would be correcting a grammatical error as to number four, in that the last reported sentence is not a complete sentence. It was intended to read that the opinions rendered by Oak Ridge National Laboratory regarding claims of specific decompositional odors could be scientifically determined, when, in fact, that is not the case as will be shown in the "Frye hearings".
- h. Dr. Barry Logan. The defense adopts, ratifies, and reaffirms the responses in paragraphs one through five of Dr. Logan's disclosures, notwithstanding same, the defense further adds that Dr. Logan is expected to testify in the Court on the "Frye hearings" regarding the State's apparent efforts to introduce evidence of odor and air sampling, and the numerous fallacies with the assertions and claims of State "expert" witnesses, particularly Arpad Vass.
- i. Dr. John Leeson. Dr. Leeson has been engaged by the defense as a consultant

with respect to various computer related analysis. It is unlikely that Dr. Leeson will be called to testify, however, in the event that the prosecutions “experts” offer forensic testimony regarding “digital forensics”, then Dr. Leeson potentially would be called as a witness to rebut such testimony. It is not believed, at this point in time, that any such need is likely to occur in this case and, therefore, it is not anticipated that Dr. Leeson would be testifying.

- j. Dr. William Rodriguez. The defense has previously provided responses to the five requests of the Court, however, the defense acknowledges that paragraph five includes a choice of words that are not particularly revealing in substantial content. The Defendant has no way of knowing what testimony may be provided by expert witnesses on the subject matter of decomposition other than that which has been testified to in depositions and/or contained in various reports previously discovered. However, if Dr. Rodriguez were called to testify, he would testify specifically on such things as, but not limited to, time for decomposition, environmental impacts on decomposition, and various stages of decomposition. Dr. Rodriguez has been engaged primarily as a consultant to aid the defense with his forensic area and is not likely to testify, unless he was called to potentially rebut testimony of the State experts.
- k. Richard Eikelenboom. With respect to Richard Eikelenboom, the defense adopts and ratifies the responses previously filed in paragraphs one through

five, with the exception of, in this supplement, withdrawing the phrase “to rebut any false claims raised...”. The defense further would show that Mr. Eikelenboom did participate in the actual and personal examination of many of the items of tangible evidence at the Orange County Sheriff’s Office CSI division. He, along with his partner, not only examined many items, but took photographs of them. More importantly, he and his partner were photographed by the CSI taking the photographs of the evidence. Those photographs have all been produced in discovery. Further, it is possible that Mr. Eikelenboom may be required to offer testimony, either rebuttal or direct, as to issues of degradation of DNA, depending on the exact trial testimony of the State’s experts on that subject. Mr. Eikelenboom, along with the other witnesses, is available for deposition by Skype or WebEx, as are so many of the other witnesses being questioned by the State and/or have been questioned by the defense.

1. Dr. Michael Freeman. Dr. Freeman had his name included on the expert witness list because of the pressure of the time lines in doing so. However, the defense has determined that is not going to be called as a witness in this case and, accordingly, no further disclosures are necessary.

10. This Court has acknowledged, in fact in its Order of December 3, 2010 (Exhibit “B”), that “work product” privileged documents would not be included in any required discovery. To the extent that Orders have been interpreted as exceeding that, then said Orders would be outside the essential requirements of the law. Notwithstanding, the defense has, because of the intervening actions, provided the above information in an effort to, not only fulfill the requirements of the Court,

but also show a good faith effort in complying with this Court's directions.

11. The Court's Order imposing sanctions in this case reveals misunderstandings or misapprehensions by the Court in certain respects. The Court included that in the Order that the State experts had been "retained at tax payer's expense". This is not accurate. Some of the experts have or will submit requests for reimbursement of expenses in accordance with the schedule of the JAC. [It also should not be overlooked that the State bears no such burden or restrictions with respect to the hiring of their experts.] Further, the same Order reflected that the witnesses have been "deposed" by the defense. Again, this is not accurate. The only depositions have been of state witnesses, and the defense has repeatedly invited the prosecution to take the depositions of the defense experts. Clearly, the information provided and the additional information included in this supplemental disclosure are more than sufficient for an experienced senior lawyer like Mr. Ashton to take complete and meaningful depositions.

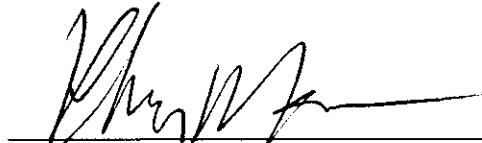
12. Your undersigned submits that in light of the history, as set forth above, (and Order entered causing disagreement between State and the defense; discussions as to interpreting the "intent" of the Court, the responses, and now the supplements), that a determination of "civil contempt" is unnecessary to acquire the compliance. Contempt is generally used to coerce compliance. Further, the Court, in carrying its burden of ensuring a level playing field for the prosecution and the defense may want to consider the responses of the State. This Court's aforesaid Order required both sides to provide certain information. Despite the response filed by Mr. Ashton on behalf of the State of Florida, a review of same shows substantial deficiencies, at least equal to, if not beyond, the alleged "deficiencies" in the response by the defense.

WHEREFORE, the Defendant, having filed the aforesaid supplemental response, requests this Court to consider the content of the case of Smith v. State, 873 So.2d 585 (3DCA 2004), in

addition to the foregoing good faith supplemental compliance, and thereupon recall and vacate the Order for Contempt.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to Assistant State Attorney, Jeffrey Ashton, Esq., 415 N. Orange Avenue, Orlando, Florida 32801 this 11th day of January, 2011.



J. CHENEY MASON, ESQ.
Florida Bar No.: 0131982
J. CHENEY MASON, P.A.
390 N. Orange Avenue, Suite 2100
Orlando, Florida 32801
Telephone: 407-843-5785
Facsimile: 407-422-6858
One of the Attorneys for Defendant

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-O

DIVISION: 16

vs.

CASEY MARIE ANTHONY
Defendant.

MOTION TO COMPEL ADDITIONAL DISCOVERY

COMES NOW the State of Florida through the undersigned and moves this court to enter its order compelling the Defendant to provide, pursuant to F.R.C.P. 3.220(d) and (f), the following additional discovery as to pertain to listed expert witnesses.

- 1) Any contracts or agreements, in any manner or form, setting for the scope of work or expected compensation.
- 2) Any communications between the expert and any member of the defense team, either past or present, or any member of their staff, or any one working on behalf of the Defendant.
- 3) All records of bills submitted by or payments made to the expert.
- 4) All records pertaining to payments for travel, meals or entertainment paid to or for the benefit of the expert or anyone traveling with the expert, by any member of the defense team, either past or present, or any member of their staff, or any one working on behalf of the Defendant.
- 5) Any notes taken by the expert or for the expert during, or referencing their examination of any evidence in this case.
- 6) Any photograph or video taken by the expert in connection with this case.

The State of Florida requests that any document referenced above to which any privilege is asserted by submitted to this court for in camera inspection and redactions as the courts deems fit. The State request that these documents be produced at a reasonable time but not later than five business days prior to the deposition of the expert.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Jose A. Baez, 522 Simpson Road, Kissimmee, FL 34744 counsel for the Defendant , on this 18th day of November, 2010.

Jeffrey L. Ashton
Assistant State Attorney
Florida Bar # 318337
415 N. Orange Avenue, P.O. Box 1673
Orlando, FL 32802
(407)836-2406

+

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

STATE OF FLORIDA,
Plaintiff,

CASE NO. 48- 2008-CF-15606

DIVISION: 99

vs.

CASEY MARIE ANTHONY,
Defendant.

**ORDER ADDRESSING MOTIONS TO COMPEL ADDITIONAL DISCOVERY
AND OTHER DISCOVERY MATTERS**

THIS MATTER came before the Court for hearing on November 29, 2010 where Motions to Compel filed by both the State and Defendant were addressed along with other matters pertaining to discovery. Upon hearing arguments of counsel from Defendant and the State Attorney, it is **ORDERED AND ADJUDGED:**

I. Motions to Compel Additional Discovery:

On November 19, 2010, the State filed a Motion to Compel Additional Discovery pursuant to Florida Rule of Criminal Procedure 3.220(d) and (f) and requested the following additional discovery as it pertains to the Defendant's list of expert witnesses:

1) Any contracts or agreements, in any manner or form, setting forth the scope of work or expected compensation;

2) Any communications between the expert and any member of the defense team, either past or present, or any member of their staff, or anyone working on behalf of the Defendant;

3) All records of bills submitted by or payments made to the expert;

4) All records pertaining to payments for travel, meals or entertainment paid to or for the benefit of the expert or anyone traveling with the expert, by any member of the defense team, either past or present, or any member of their staff, or anyone working on behalf of the Defendant;

5) Any notes taken by the expert or for the expert during, or referencing their examination of any evidence; and

6) Any photograph or video taken by the expert in connection with this case.

The Court finds that the discovery items requested under numbers 1, 2, 3, and 4 of the State's Motion can be obtained through other avenues such as through depositions, subpoenas duces tecum, and public record requests. Therefore, the items requested under numbers 1, 2, 3, and 4 of the State's Motion are **DENIED, but WITHOUT PREJUDICE** if such items cannot be obtained through such other avenues.

Items requested under numbers 5 and 6 of the State's Motion pertaining to notes taken by experts during the examination of evidence and photos or videos taken by experts in connection with this case are **GRANTED**. By 4:00 p.m. on December 3, 2010, defense counsel shall provide to the State the items requested under items 5 and 6 (with the exception of any portions of said items that are work product) and Defendant shall also provide to the State a list of the Defendant's experts that shall include the subject matter as to what the experts will testify to and the area of expertise for each expert.

Also, on November 24, 2010, in response to the State's Motion, Defendant filed a mirror version of the Motion to Compel Additional Discovery requesting similar discovery as to the State's list of expert witnesses. Because this Motion was not noticed for hearing, the Court did not enter a ruling. Should Defendant wish to pursue her Motion further, she must notice it for hearing at a future date.

Ashton, Jeff

From: Jose Baez [jose@baezlawfirm.com]
Sent: Wednesday, December 01, 2010 11:42 AM
To: Ashton, Jeff
Subject: Re: Experts

~~XXXXXXXXXX~~ Okay let me see if I can clarify not only what you know about the list of experts and if you have any questions we can take it from there. The goal here is to work together, right? Please check below and if you have any questions let me know:

DR. HENRY LEE (Criminalist: He inspected the car and was at the evidence inspection and inspected the scene ALL OF WHICH YOU ALREADY KNOW)

University of New Haven
Forensic Science Program
300 Orange Avenue
West Haven, CT 05616

**DR. WERNER SPITZ (forensic pathology:
Performed the second autopsy on Caylee, YOU
ALREADY KNOW THIS (SPOKEN IN OPEN
COURT)**

23001 Greater Mack
St. Clair Shores, Michigan 48080-1996

**DR. KATHY REICHS (anthropology:
Conducted the anthropological exam on Caylee
and will testify on these topics, THIS YOU KNOW)**

1818 Craigmere Drive
Charlotte, NC 28226

**DR. JANE H. BOCK (Botany: Reviewed Hall's
report and inspected the scene and will testify
about BOTANY, PLEASE TELL ME YOU
KNEW THIS)**

University of Colorado
Ecology and Evolutionary Biology Dept.
Boulder, Colorado 80309-0334

**DR. TIM HUNTINGTON (Entomology will testify
about Entomology, you have been involved in every
area that he has inspected)**

Asst. Prof. of Biology
Concordia University, Nebraska
800 N. Columbia Ave.
Seward, NE 68434

12/1/2010

DR. SCOTT FAIRGRIEVE (K-9 issue, as mentioned he will testify at that hearing if we have one.)

Chair, Department of Forensic Science
Laurentian University
935 Ramsey Lake Road
F-323A, Third Floor, Science 2 Bldg.
Sudbury ON P3E 2C6

DR. KENNETH FURTON (Forensic Chemist will testify in all areas concerning Forensic Chemistry)

University Medical & Forensic Consultants, Inc.
10130 Northlake Boulevard, Suite 214
West Palm Beach, Florida 33412

DR. BARRY LOGAN (Forensic Chemist will testify in all areas of forensic Chemistry)

National Medical Services, Inc.
3701 Welsh Road
Post Office Box 433A
Willow Grove, PA 19090

DR. JOHN LEESON (Digital Forensics: As I am sure you know this has to do with the Computer)

1208 Wolverine Trail
Winter Springs, FL 32708

DR. WILLIAM RODRIGUEZ

(Anthropologist/Taphonomy: You know what he will testify to as you objected to it at the hearing and have read my motion)

16465 Old Frederick Rd.
Mt. Airy, MD 21771

RICHARD EIKELENBOOM (DNA expert, may testify about DNA)

Poppeswegje 36, 8077 RT Hulshorst
The Netherlands

Dr. Michael Freeman forensic Epidemiologist.(Will testify about Epidemiology if an issue arises, I would advise taking his depo last as he has not completed his work)

MICHAEL O'KELLY (Cell Towers, He may testify about Cell Towers and Cell phones)

P.O. Box 958
S. Sioux City, NE 68776

Re: Experts

On 12/1/10 11:21 AM, "Ashton, Jeff" <JAshton@sao9.org> wrote:

That is not what the judge ordered. He order you to provide the matters in writing. I want a written statement of the substance of their testimony as ordered by the court. [REDACTED]
[REDACTED] Do you agree with my interpretation of the Judges oral pronouncement? If not we can seek time with the court to have him clarify any confusion. Thank you.

Jeffrey L. Ashton
Assistant State Attorney
(407)836-1314

-----Original Message-----

From: Jose Baez [<mailto:jose@baezlawfirm.com>]
Sent: Wednesday, December 01, 2010 11:06 AM
To: Ashton, Jeff; Drane Burdick, Linda; Mason Cheney
Subject: Re: Experts

You know what are all of the forensic issues are. If you have a question about any particular witness, just ask and I will be more than happy to answer it. [REDACTED]
[REDACTED] Just ask

12/1/2010

EXHIBIT C

me what you want to know.

On 12/1/10 10:57 AM, "Ashton, Jeff" <JAshton@sao9.org> wrote:

The court's order required that you reveal the "substance of the testimony of the witnesses". If this is all you are sending we do not find it to be in compliance with the courts order. If you are anticipating further compliance we will wait till Friday. If this is all you intend to send we will address it with the court. Please let me know.

Jeffrey L. Ashton
Assistant State Attorney
(407)836-1314

-----Original Message-----

From: Jose Baez [<mailto:jose@baezlawfirm.com>]
Sent: Wednesday, December 01, 2010 10:47 AM
To: Ashton, Jeff; Drane Burdick, Linda; Mason Cheney; cheneylaw@aol.com
Subject: Experts

Below are the experts and the field of their anticipated testimony

DR. HENRY LEE (Criminalist)
University of New Haven
Forensic Science Program
300 Orange Avenue
West Haven, CT 05616

DR. WERNER SPITZ (forensic pathology)
23001 Greater Mack
St. Clair Shores, Michigan 48080-1996

DR. KATHY REICHS (anthropology)
1818 Cragmore Drive
Charlotte, NC 28226

DR. JANE H. BOCK (Botany)
University of Colorado
Ecology and Evolutionary Biology Dept.
Boulder, Colorado 80309-0334

12/1/2010

Ashton, Jeff

From: Jose Baez [jose@baezlawfirm.com]
Sent: Wednesday, December 01, 2010 11:43 AM
To: Ashton, Jeff
Subject: Re: Experts

Check my last email and if you need anything else let me know.

On 12/1/10 11:36 AM, "Ashton, Jeff" <JAshton@sao9.org> wrote:

We have just reviewed the video of the hearing and the courts exact words were " the subject matter of what they will be testifying too" and that the matters must be provided by friday at 4 PM. If you disagree with the interpretation of the courts words we will return to the court for clarification. Please let me know ASAP so that we can resolve the issue before your deadline.

Jeffrey L. Ashton
Assistant State Attorney
(407)836-1314

-----Original Message-----

From: Jose Baez [mailto:jose@baezlawfirm.com]
Sent: Wednesday, December 01, 2010 11:06 AM
To: Ashton, Jeff; Drane Burdick, Linda; Mason Cheney
Subject: Re: Experts

You know what are all of the forensic issues are. If you have a question about any particular witness, just ask and I will be more than happy to answer it. ~~_____~~
~~_____~~ Just ask me what you want to know.

On 12/1/10 10:57 AM, "Ashton, Jeff" <JAshton@sao9.org> wrote:

The court's order required that you reveal the "substance of the testimony of the witnesses". If this is all you are sending we do not find it to be in compliance with the courts order. If you are anticipating further compliance we will wait till Friday. If this is all you intend to send we will address it with the court. Please let me know.

12/1/2010

EXHIBIT E

SWORN AFFIDAVIT

1. I, William C. Slabaugh, Esq., have worked for The Baez Law Firm in different capacities since May of 2009.
2. In response to Honorable Belvin Perry Jr.'s Order Granting State's Motion For Clarification / To Compel Compliance With Order For Additional Discovery, I printed, compiled, and labeled the exhibits (curriculum vitae) of 10 experts. In total these exhibits consisted of approximately 300 pages.
3. These exhibits included the curriculum vitas of Dr. Jane Bock, Dr. Scott Fairgrieve, and eight other experts whose documents were not ordered to be provided until 3:00pm on Thursday, December 23, 2010.
4. On December 14, 2010, I inquired with Diana Marku from Cheney Mason's office on whether the Clerk of Court would accept a court filing by email due to its size.
5. I later learned from Diana Marku that the Clerk's Office would not accept an email court filing and that she had been instructed not to attempt to file the response by fax due to the number of pages.
6. Upon learning this, I made three copies of the response and all exhibits to be provided to the clerk, State Attorney's Office, and Judge Belvin Perry Jr.
7. In the afternoon of December 14, 2010, I drove from Kissimmee to Orlando to file these documents with the Clerk of Court, State Attorney's Office, and Judge Belvin Perry Jr.
8. Due to severe traffic conditions, I did not reach the doors of the Orange County Courthouse until 5:02pm. I was instructed by court security that I may use the side entrance. I attempted to enter the courthouse through the side entrance, but was denied entrance even though I had my State of Florida Bar Card.
9. I was instructed that I could not enter without an Orange County Bar Association Card.
10. I immediately attempted to provide the State Attorney's Office with the response. That office was closed as well, with no employees or security present or exiting the building for sometime.
11. I immediately proceeded to Cheney Mason's office and provided Diana Marku the responses and instructed her to file them first thing in the morning.
12. It was my understanding, Ms. Marku personally filed/served the responses on the morning of December 15, 2010.

13. I am executing this affidavit voluntarily and of my own free will without coercion or undue pressure from anyone.

1/10/11
Date

William C. Slabaugh
William C. Slabaugh, Esq., Affiant

STATE OF FLORIDA
COUNTY OF OSCEOLA
SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 10 day of January, 2011.

[Signature]

Notary Public

Personally known to me

Produced identification Type of identification produced N/A

