



volunteers, TES identified only thirty-two who “searched the area between Hidden Oaks Elementary School and around where the remains were found.”

3. On August 29, 2009, this Court entered an Order requiring TES to disclose, to the State and Defense, documents relating to those thirty-two (32) searchers who performed a search of the area on Suburban Drive, near Hidden Oaks Elementary School.

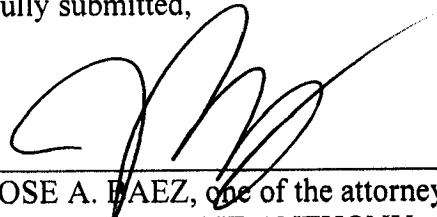
4. The Defense, through its own independent investigation, has interviewed several TES searchers who not only searched the area where the remains were found, but who were not among the thirty-two (32) identified by TES. As reflected in their individual signed statements, these individuals each submitted detailed reports of their search to TES, none of which were disclosed to the Defense. *See Exhibits A and B.*

5. None of the persons who searched the area where Caylee Anthony’s remains were ultimately found reported finding anything unusual. The searchers did not find a body, did not notice any smells which might be associated with a body, and did not see any unusual animal or insect activity which might be indicative of a decaying body. *See Exhibits A and B.*

6. This evidence, discovered by the Defense, shows that the statements made by TES, to this Court, were inaccurate. There were indeed TES searchers who searched the area where Caylee Anthony’s remains were found. There were also many more than thirty-two (32) individuals who searched the area on Suburban Drive, near Hidden Oaks Elementary School. The information most relevant to Miss Anthony’s defense was withheld.

WHEREFORE, for the foregoing reasons, Miss Anthony, by and through undersigned counsel, respectfully asks this Honorable Court to revise the previous Order entered and require TES to disclose all materials relating to the searches it conducted relating to Caylee Anthony and provide counsel with copies of everything forthwith.

Respectfully submitted,



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



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

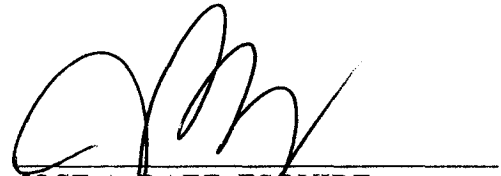
Dated: 11/23, 2009

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to Mark E. NeJame, counsel for TES, 189 South Orange Avenue, Orlando, Florida 32801; and the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and/or U.S. Mail on this 23 day of November, 2009.



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	)	In the Circuit Court of the
	)	Ninth Judicial Circuit, in and for
	)	Orange County, Florida
STATE OF FLORIDA	)	
	)	Case No.: 482008-CF-0015606-O
v.	)	Division 16
	)	
CASEY MARIE ANTHONY,	)	Hon. Stan Strickland
	)	
Defendant.	)	
	)	

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**MEMORANDUM OF LAW IN SUPPORT OF  
DEFENDANT’S MOTION TO MODIFY THE COURT’S ORDER ON DEFENDANT’S  
APPLICATION FOR SUBPOENA DUCES TECUM FOR DOCUMENTS IN THE  
POSSESSION OF TEXAS EQUSEARCH**

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COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys JOSE A. BAEZ and ANDREA D. LYON, and submits this Memorandum of Law in support of her Motion to Modify the Court’s Order on Defendant’s Application for Subpoena Duces Tecum for Documents in the Possession of Texas Equusearch.

In support of the motion, Miss Anthony states the following:

**STATEMENT OF FACTS**

1. The facts specified in the Memorandum of Law in support of Miss Anthony’s original Motion to Certify Timothy Miller as a Material Witness in the Instant Prosecution, or in the Alternative Application for Subpoena *Duces Tecum* for Documents in the Possession of Texas Equusearch, are incorporated here by reference.

2. Texas Equusearch (TES), through their attorney, Mark NeJame, stated to this Court that no one, acting on their behalf, ever searched “at the exact spot where Caylee Anthony’s remains were found.” TES then further stated that it had reviewed all of the

documents in its possession and discovered only thirty-two (32) searchers had ever even been in the Suburban Drive neighborhood.

3. On August 29, 2009, this Court ordered TES to disclose documents relating to those thirty-two (32) searchers who were identified as having searched the Suburban Drive neighborhood.

4. On September 1, 2008, Joe Jordan, a volunteer for TES, along with approximately 30 other TES volunteers went to the Suburban Drive neighborhood to search for Caylee Anthony. Of those 30 volunteers, approximately five or six, along with Joe Jordan, searched the area near the wooden stockade fence on the south side of 8750 Suburban Drive. Along with Joe Jordan, and the other five or six searchers, were two dog handlers with dogs, Danny Ibison and a Panama City Sheriff's Deputy. The area they searched was within feet of where Caylee Anthony's remains were ultimately found. Joe Jordan documented his search in detail on forms specifically provided by TES and submitted those forms to TES officials. Joe Jordan's name was not among the thirty-two (32) searchers identified by TES and none of his reports were disclosed to the Defense. *See Exhibit A.*

5. On September 3, 2008, Laura Buchanan, a volunteer for TES, along with the team to which she was assigned, searched the area on Suburban Drive near where Caylee Anthony's remains were ultimately found. The group searched the area for three to four hours, and Laura Buchanan personally searched near the wooden privacy fence and worked her way towards, and beyond where Caylee Anthony's body was ultimately found. She did not notice anything unusual. There were no strange smells or any unusual animal or insect activity. It is Laura Buchanan's opinion based on her observations that Caylee Anthony's body was not there at the time of her team's search. Laura Buchanan was not listed among the thirty-two (32) searchers

identified by TES as having been on Suburban Drive. Furthermore, no documents among those disclosed by TES, relate to a search on September 3, 2008. *See Exhibit B.*

## ARGUMENT

### I. The Defense's showing before this Court warrants a full and complete disclosure of documents by TES.

The Defense, through its original Motion and Memorandum of Law, has properly requested this Court to grant a Subpoena *Duces Tecum* for Documents in the Possession of TES. Florida Rule of Criminal Procedure 3.361(c)(1) allows the issuance of a subpoena to, "a person or entity to produce books, papers, documents, or tangible things." Jurisdiction of this Court, to grant such a subpoena is appropriate for three reasons. As stated in the Defense's original Motion and Memorandum of Law, TES has both conducted business within the state of Florida and also acted as an agent of law enforcement through its efforts to locate the missing child Caylee Anthony. Both of these are rationale for subjecting TES to the jurisdiction of this court. *See Steel Joist Institute, Inc. v. J. H. Mann, III, Inc.*, 171 So.2d 625 (Fla. 2d Dist. Ct. App. 1965) (Conducting business within Florida subjects a nonprofit corporation to the reach of Florida's long-arm statute). and *State v. Moninger*, 957 So.2d 2 (Fla. 2d Dist. Ct. App. 2007) (When government is aware and acquiescent in conduct and the individual actor intends to assist law enforcement, the actor is an agent of the state). Furthermore, through the course of argument on the original motion, it has come to be known that the documents in question are kept in Florida at the office of counsel for TES, and thus subject to the powers of this Court.

#### A. Documents in the possession of TES are material and relevant.

A critical part of any homicide case, for both the prosecution and defense, is determining how and when the victim died. Necessary to this determination is finding the deceased's body

and determining at what time it was placed in the location it was found. Records in the possession of TES contain information directly pertaining to this determination.

TES played a significant role in the initial search for Miss Anthony's missing daughter Caylee. From August 30, 2008 through November, 2008, members of, and volunteers for, TES conducted several searches for Caylee Anthony. On a number of occasions during this time frame TES searchers were in the Suburban Drive neighborhood, and searched very near where the remains of Caylee Anthony were ultimately found. *See Miss Anthony's original Motion and Memorandum of Law as well as attached Exhibits A and B.* TES kept detailed records pertaining to the coordination and execution of these searches and even provided searchers with specific forms on which to document their findings. *See Exhibit A.* The notes and observations of persons who searched the Suburban Drive neighborhood are essential to answering whether the remains of Caylee Anthony were present in late August and November, or if they were placed at the location where they were discovered sometime later. The date at which Caylee Anthony's remains were placed at the site of ultimate discovery is highly material and extremely relevant to Miss Anthony's case.

B. This Court's Order largely relied on misrepresentations made by TES as to the contents of the documents it possessed.

TES, in its response to Miss Anthony's original request for a Subpoena *Duces Tecum*, states that: "[T]he items requested by the Defendant, through her counsel, would be immaterial and irrelevant. None of thousands of searchers, who volunteered with TES, were ever at the exact spot where Caylee Anthony's remains were found." (emphasis added) The response then goes on to state that members of TES have combed through the thousands of documents and identified only thirty-two (32) volunteers who searched the Suburban Drive neighborhood. TES did not object to turning over the paperwork of these thirty-two (32) volunteers it identified,

however, stated that disclosing documents pertaining to any other searchers, “would be immaterial and irrelevant to this issue.”

This Court, in its ensuing Order, seems to rely upon the representation of TES’s description of the contents of the documents in its possession. In the Order, this Court required disclosure of documents pertaining to the thirty-two (32) searchers identified as having been on Suburban Drive. This Court, however, ended the mandatory disclosure there and placed a burden upon the Defense to review documents at the office of counsel for TES and identify further documents for *in camera* review. The reason for levying such a heavy burden on the Defense was likely that the Court accepted TES’s statement that it had already carefully examined the documents and that the thirty-two (32) identified were the only volunteers to search the Suburban Drive neighborhood.

The signed statements from Joe Jordan and Laura Buchanan, included with this Memorandum of Law, indicate that there were several searchers who searched the Suburban Drive neighborhood but who were not among the thirty-two (32) names disclosed by TES. *See Exhibits A and B.* Despite TES having stated that none of its searchers were ever at the spot where Caylee Anthony’s remains were ultimately found, the statement made by Laura Buchanan says that she started searching before where the remains were found, worked her way along, and ended her searching beyond where Caylee Anthony was ultimately found. *See Exhibit B.* Such a search would naturally include the exact location the remains were ultimately found, contrary to the statement made by TES. Joe Jordan also states that he too searched the area where Caylee Anthony’s remains were ultimately found, however his name was not disclosed by TES. *See Exhibit A.* Joe Jordan was accompanied in his search by two dog handlers with their dogs, Danny Ibison and an unnamed Panama City Sheriff’s Deputy. *See Exhibit A.* The names of

these dog handlers were also not included among the documents released by TES. Furthermore, Joe Jordan kept detailed logs of the search on Suburban Drive, written on forms specifically provided to him by TES, which he turned over to TES. *See Exhibit A.* None of Joe Jordan's reports were among the documents disclosed by TES.

The representations made by TES have been shown here, by the Defense, to be inaccurate and as such this Court should revise its Order.

C. TES has not shown a sufficient bar to requiring full disclosure.

The argument TES makes in opposition of full disclosure is based on the perceived "chilling effect" such disclosure would have on TES's ability to obtain volunteers for future search efforts. TES argues that allowing the disclosure of the searchers' identities would subject them to media scrutiny and deter people from volunteering in the future. In support of this argument TES cites *South Florida Blood Service v. Rasmussen*, 467 So.2d 798 (1985). This argument is flawed for a number of reasons.

Given the overwhelming media presence in Miss Anthony's case, it cannot reasonably be argued that searchers volunteered to search for Caylee Anthony because they wished or expected to remain anonymous. Miss Anthony's original Motion and Memorandum of Law cites numerous examples of times when the searchers were being videotaped or interviewed by the media. Joe Jordan himself has even given a radio interview.<sup>1</sup>

Furthermore, TES has already disclosed search records from volunteer searchers identified by TES as having been in a specific area relevant to Miss Anthony's case. If a "chilling effect" were to take place, it would have occurred already. When a person volunteers

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<sup>1</sup> <http://scaredmonkeys.com/2008/08/26/the-dana-pretzer-show-on-scared-monkeys-radio-wednesday-august-27-2008-guests-include-tim-miller-of-texas-equusearch-discussing-the-caylee-anthony-search-caylee-anthony-searcher-joe-jordan-disc/>

to search for TES, they don't volunteer on the condition that they are assigned only to areas that will ultimately be irrelevant to a future criminal case. TES is obviously unable to make such a guarantee and if they could state ahead of time, which areas were and were not important, they wouldn't need searchers in the first place, as they would already know where the missing person was. Persons volunteering to search for TES do so knowing full well that they may become an integral part of the investigation and a possible future criminal case.

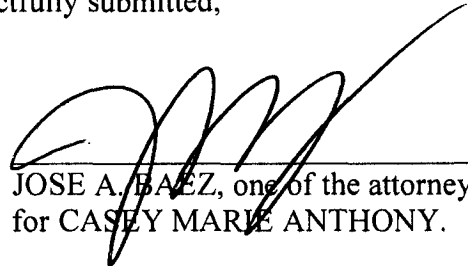
The reliance by TES on *South Florida Blood Service v. Rasmussen* is misplaced. 467 So.2d 798. In that case the court was confronted with the issue of whether disclosure of the identities of blood donors, with acquired immune deficiency syndrome (AIDS), was required. The privacy interests identified by the court in *Rasmussen* are fundamentally different than those in Miss Anthony's case. In *Rasmussen* the court found an individual's interest in preventing disclosure of information, which was probative of the most intimate details of their lives, "including their sexual practices, drug use and medical histories," outweighed any interest in disclosure. *Id.* at 802. In Miss Anthony's case, the privacy interests are much different. It can hardly be argued that disclosing a name and phone number – information readily obtained through a phone book – would have the same, or even close to the same, chilling effect on volunteerism as would disclosing information about a volunteer's sexual practices, drug use, or medical history.


Due to the significant showing as to the materiality and relevance of the documents in possession of TES, and because of TES's inaccurate representations to this Court regarding of the contents of such documents, it cannot be said that a rationale outweighing the need for full disclosure has been shown.

**CONCLUSION**

WHEREFORE, for the foregoing reasons, Miss Anthony, by and through undersigned counsel, respectfully asks this Honorable Court to revisit the previous Order entered and require TES to disclose all materials relating to the searches it conducted relating to Caylee Anthony.

Respectfully submitted,

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

  
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ANDREA D. LYON, one of the attorneys  
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Dated: 11/23, 2009

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# TABLE OF EXHIBITS

- A. Signed statement of TES searcher Joseph Jordan.
- B. Signed statement of TES searcher Laura Buchanan.

# **EXHIBIT A**

## STATEMENT OF JOSEPH JORDAN

On October 27, 2009 at approximately 9:30 a.m. I met with my attorney at the time, Kelly B. Sims and an Investigator for the defense in the Casey Anthony case. The purpose of this meeting was to answer questions pertaining to my search efforts with Texas Equu Search in the area of Suburban and Hope Springs Streets in Orlando, Florida. I provided the following information:

- a. On September 1, 2008, I was a volunteer member for Texas Equu Search (TES).
- b. On September 1, 2008, I and a group of approximately 30 TES volunteers went to the area of Suburban and Hope Springs Streets in Orlando, Florida. We went to that area to search for the remains of Caylee Anthony.
- c. Although I was in the area with over 30 people, only five to six volunteers and I searched the area by the stockade fence along the south side of Suburban Street near Hope Springs Street. Among the five to six volunteers with me were Danny Ibison and his dog and a Panama City Sheriff's Deputy with one of his two dogs.
- d. All of the information concerning the search was reduced to writings which were placed on specific forms provided to me by TES. I am a very detailed person and I kept a detailed list of the items I saw and there location which I believed were important to a missing person investigation. All of this information was provided to TES.

The above is true and accurate to the best of my recollection.

Signed: \_\_\_\_\_

Joseph Jordan

Date: \_\_\_\_\_

11/16/2009

# **EXHIBIT B**

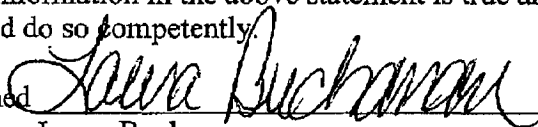
**STATEMENT BY LAURA BUCHANAN**

I, Laura Buchanan, Give the following statement of my own free will.

- 1. My name is Laura Buchanan and I currently live in Mendham, New Jersey.
- 2. On September 3, 2008, I was a volunteer for Texas Equus Search.
- 3. On September 3, 2008, the team in which I was assigned went to Suburban Street in Orlando and searched the area near where the remains of Caylee Anthony were found.
- 4. We were not officially assigned to search that area. We went on our own.
- 5. We were in that area for approximately 3 to 4 hours.
- 6. I personally searched near the privacy fence and worked my way towards and then beyond the spot where the body was found
- 7. I did not notice anything unusual.
- 8. I did not notice a strange smell. I noticed no buzzards, nor unusual animal or insect activity.
- 9. It is my opinion that the remains of Caylee Anthony were not there during the time of our search.

**DECLARATION OF LAURA BUCHANAN**

I declare under the penalty of perjury and the laws of the United States of America that the information in the above statement is true and accurate. If called upon to testify I could do so competently.

Signed   
Laura Buchanan

Date 10/24/09

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to Mark E. NeJame, counsel for TES, 189 South Orange Avenue, Orlando, Florida 32801; and the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and/or U.S. Mail on this 23 day of November, 2009.



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