

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

STATE OF FLORIDA

CASE NO: 48-2008-CF-15606-O

Plaintiff,

DIVISION: 99

vs.

CASEY MARIE ANTHONY

Defendant.

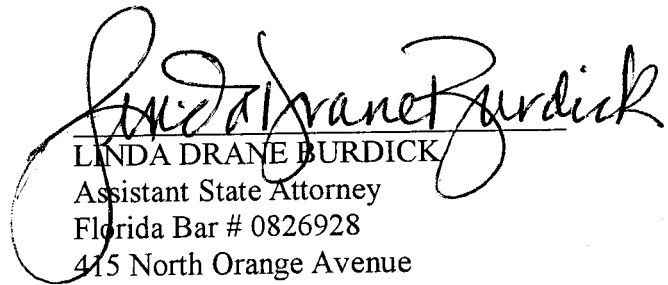
STATE OF FLORIDA'S RESPONSE TO
ORDER REGARDING DEPOSITION SCHEDULE
and MOTION FOR EXTENSION OF TIME TO FILE DEPOSITION SCHEDULE

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney, and files this response to the Court's order of April 30, 2010 regarding a deposition schedule in the above-entitled action.

1. As previously noted in the *State of Florida's Motion to Compel Discovery* and *State of Florida's Second Motion to Compel Discovery* (See attached Exhibits A and B), the defendant has provided 2 witness lists to the State of Florida.
2. Depositions of Dr. Larry Kobilinsky, John Jay College of Criminal Justice 899 10th Avenue, New York, NY 10019 and Dr. Henry Lee, University of New Haven, 278 Colony Street, Meriden, CT 06451 have not been scheduled due to the fact that neither has completed their work to date.
3. *Defendant's Motion in Limine to Introduce Prior Bad Acts and Other Circumstantial Evidence Pertaining to Roy M. Kronk* contains the names of several witnesses who may be called at hearing on the matter, but the defense has failed to provide a witness list containing those names as mandated by the Florida Rules of Criminal Procedure. As noted in the *State of Florida's Second Motion to Compel Discovery*, the defense did send an email to the undersigned with contact information for the witnesses and the undersigned has been attempting to schedule those depositions without success due to lack of cooperation from attorneys representing Crystal & Brandon Sparks and Laura Buchanan.
4. The State of Florida understands that the depositions of the expert witnesses listed by the defense shall be completed no later than February 28, 2011. Since the listed individuals have not yet completed their examination of the evidence, the State of Florida requests an extension to file a deposition schedule for those individuals. Such schedule will be filed within 10 days of notification that the expert has completed his work but in no event later than November 30, 2010.

5. As no other witnesses have been formally listed by the defense (excepting those who may already appear on the State's Witness List), the State is requesting the permission of the Court to file a deposition schedule of any non-expert witnesses within 10 days of the filing of any defense witness list.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Jose Baez, Esquire, 522 Simpson Road, Kissimmee, Florida, lead counsel for defendant Casey Marie Anthony, this 14th day of May, 2010.


LINDA DRANE BURDICK
Assistant State Attorney
Florida Bar # 0826928
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IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT, IN AND FOR ORANGE
COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO: 48-2008-CF-15606-O

Plaintiff,
vs.

DIVISION: 16

CASEY MARIE ANTHONY

Defendant.

STATE OF FLORIDA'S MOTION TO COMPEL RECIPROCAL DISCOVERY

COMES NOW, the State of Florida, by and through the undersigned Assistant State Attorney, pursuant to Florida Rule of Criminal Procedure 3.220(d), and moves this Honorable Court for an order compelling the defense to provide the names and addresses as well as all supporting documentation relative to their claim that someone other than Casey Anthony disposed of the body of Caylee Marie Anthony in the woods off of Suburban Drive. In support of this request, the State says as follows:

1. Caylee Marie Anthony had not been seen alive by anyone other than her mother, defendant CASEY MARIE ANTHONY, since June 16, 2008.
2. On December 11, 2008, Caylee Marie Anthony's skeletonized remains were located in a wooded area off of Suburban Drive near the Anthony family home.
3. All forensic evidence to date establishes that the remains of Caylee Marie Anthony had been deposited at that location many months prior to December 11, 2008.
4. On August 21, 2009, *Pro Hac Vice* attorney Todd Macaluso advised this Court that "there's substantial evidence, that we've discovered...that the body or the remains of Caylee Anthony were placed there after Casey Anthony was locked up in the Orange County Correctional facility." Mr. Macaluso further suggests that the defense team has spoken to one of the team leaders of Texas Equusearch "some time ago" and were informed "over one-hundred people" searched the area where the body was ultimately found.
5. On October 15, 2008, the defendant filed her Notice of Intent to Participate in Discovery and since that date has received over 10,000 scanned pages of discovery on compact disc as well as 100+ compact discs containing additional documents, audio and video taped evidence, and a witness list containing approximately 271 names and addresses of potential witnesses.
6. Florida Rule of Criminal Procedure 3.220(d) details the defendant's reciprocal discovery obligation, specifically:

Exhibit A

(1) If a defendant elects to participate in discovery, either through filing the appropriate notice or by participating in any discovery process, including the taking of a discovery deposition, the following disclosures shall be made:

(A) Within 15 days after receipt by the defendant of the Discovery Exhibit furnished by the prosecutor pursuant to subdivision (b)(1)(A) of this rule, the defendant shall furnish to the prosecutor a written list of the names and addresses of all witnesses whom the defendant expects to call as witnesses at the trial or hearing.

(B) Within 15 days after receipt of the prosecutor's Discovery Exhibit the defendant shall serve a written Discovery Exhibit which shall disclose to and permit the prosecutor to inspect, copy, test, and photograph the following information and material that is in the defendant's possession or control:

(i) the statement of any person listed in subdivision (d)(1)(A), other than that of the defendant;

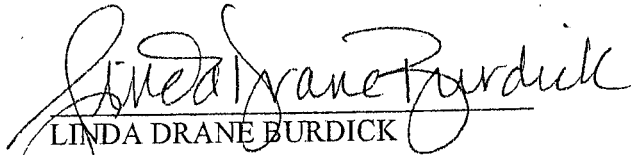
(ii) reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons; and

(iii) any tangible papers or objects that the defendant intends to use in the hearing or trial.

7. The only response that the defendant has made toward fulfilling her reciprocal obligation was a *Defense Witness List* filed November 20, 2008 and an *Amended Defense Witness List* filed January 22, 2009 due to improper form of the original. Said *Amended Defense Witness List* contains only two (2) names of witnesses different from those previously disclosed to the defense: Dr. Larry Kobilinsky, and Dr. Henry Lee. Neither has been designated an expert witness pursuant to *Luis v. State*, 851 So.2d 773 (Fla. 2d DCA 2003) and the cases cited therein.
8. Since counsel has proclaimed that the evidence they have discovered is "exculpatory", it is difficult to imagine that the defendant would not call witnesses to these "facts" at hearing or trial, or that they do not possess statements, reports, or other tangible papers or objects that support their claim.
9. More than the allotted fifteen (15) days under FRCP 3.220(d)(1) have passed since the defense made reference to this allegedly exculpatory evidence. The only conclusion this Court can draw from the fact that no additional reciprocal discovery exhibit has been filed is (1) the exculpatory evidence does not exist, or (2) the defendant is intentionally violating the rules of discovery.

WHEREFORE, the State of Florida respectfully requests that this Honorable Court conduct a hearing on this matter, or alternatively, order the defendant to immediately turn over any and all evidence to include the names and addresses of witnesses, any statements or reports generated by those witnesses, and any tangible papers or objects to be used at hearing or trial that supports their heretofore unsubstantiated claim that Caylee Marie Anthony's remains were deposited on Suburban Drive while Casey Anthony was incarcerated.

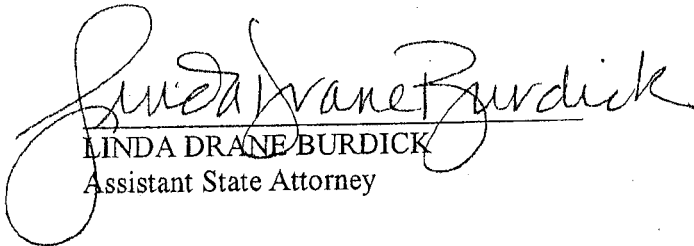
Respectfully Submitted this 10th day of September, 2009,



LINDA DRANE BURDICK
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was delivered via FAX transmission to Jose Baez, Esquire, attorney for defendant Casey Anthony, 522 Simpson Road, Kissimmee, FL 34744 this 10th day of September, 2009.



LINDA DRANE BURDICK
Assistant State Attorney

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

STATE OF FLORIDA

CASE NO: 48-2008-CF-15606-O

Plaintiff,
vs.

DIVISION: 16

CASEY MARIE ANTHONY,

Defendant.

FILED IN OFFICE 12-9-09
LYDIA GARDNER, Clerk, Cir. Ct., Orange Co., Fl
By [Signature] D.O.

**STATE OF FLORIDA'S SECOND MOTION TO COMPEL RECIPROCAL
DISCOVERY and MOTION FOR DISCOVERY SCHEDULE**

COMES NOW, the State of Florida, by and through the undersigned Assistant State Attorney, pursuant to Florida Rule of Criminal Procedure 3.220(d), and moves this Honorable Court for an order compelling CASEY MARIE ANTHONY to provide the names and current addresses of any witnesses she intends to call at hearing or trial in the above-entitled action. The State of Florida also requests this Honorable Court enter a pretrial order outlining a discovery schedule in anticipation of a trial date in the summer of 2010. In support of this request, the State says as follows:

1. At a scheduling conference with the court on July 7, 2009, counsel for defendant Anthony advised that trial preparation in the case would take approximately one year with anticipated filing dates for defense motions shortly after Labor Day, 2009. Counsel suggested that once the motions were filed, she would submit a proposed motions schedule to the court.
2. Understanding the volume of information that counsel needed to review, the Court agreed to a suggested trial status date of January 21, 2010 striking the case from the October 12, 2009 trial docket. As pretrial discovery continued, it was anticipated that by January, 2010, counsel for both parties would be in a better position to address a realistic trial date during the summer of 2010.
3. As previously noted in *State of Florida's Motion to Compel Reciprocal Discovery* filed September 10, 2009, the only response that the defendant has made toward fulfilling her reciprocal obligation was a *Defense Witness List* filed November 20, 2008 and an *Amended Defense Witness List* filed January 22, 2009 due to improper form of the original.
4. In a written response to the original *Motion to Compel Reciprocal Discovery*, as well as during a hearing on the motion on October 16, 2009, counsel for the defendant informed this Court that the defendant understood her reciprocal discovery obligations and was prepared to meet same. Despite these assurances to the Court, Miss Anthony has filed motions with attached statements from witnesses purporting to have information regarding specific aspects of the case. See *Defendant's Motion in Limine to Introduce*

Exhibit B

Prior Bad Acts and other Circumstantial Evidence Pertaining to Roy Kronk signed November 18, 2009, but served on the Office of the State Attorney on November 19, 2009 and *Motion to Modify the Court's Order on Defendant's Application for Subpoena Duces Tecum for Documents in the Possession of Texas Equusearch* signed and served on November 23, 2009.

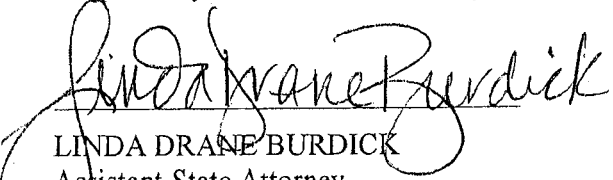
5. Neither motion was filed with a list of the names and addresses of witnesses as required by Florida Rule of Criminal Procedure 3.220(d)(1)(A). Instead, upon inquiry, the undersigned was informed initially via email from Andrea Lyon on Friday, November 20, 2009 that the "potential witnesses should be obvious from the filing", and then ultimately an email was received from Jose Baez on Tuesday, November 24, 2009 with "witness contact information" listing lawyers for Crystal & Brandon Sparks (in Washington DC), Jill Kerley (in Knoxville, TN), and Laura Buchanan (in Woodbridge, NJ). At that point, the undersigned made a specific request for a formal witness list with current addresses as required by the Rule and was advised that the defense feels they have no "further obligation to file anything" and "...the witnesses do not want the media harassing them in the meantime."
6. This unilateral decision on the part of a party to hold the witness addresses confidential runs afoul of the basic tenets of the Rules of Criminal Procedure and well-established case law. The FRCP do not permit any party to hold confidential the names and addresses of witnesses except in certain proscribed circumstances. FRCP 3.220(g)(2) While those circumstances are not applicable here, the case law dealing with the disclosure of the name and address of a confidential informant is instructive. Litigation on this issue in both the Federal and State courts quite naturally deals with the potential constitutional violation when a defendant's ability to confront the witness(es) against him/her is hampered. While the State can not assert a constitutional violation, the issue before this Court is one of fundamental fairness. In Hassberger v. State, 350 So.2d 1 (Fla. 1977), the Supreme Court of Florida cited language in Smith v. Illinois, 390 U.S. 129 (1968) for the proposition that "when the credibility of a witness is in issue, the very starting point in 'exposing falsehood and bringing out the truth' through cross-examination must necessarily be to ask the witness who he is and where he lives. The witness' name and address open countless avenues of in-court examination and out-of-court investigation. To forbid this most rudimentary inquiry at the threshold is effectively to emasculate the right of cross-examination itself."
7. Florida Rule of Criminal Procedure 3.220(e) states "the court on its own initiative or on motion of counsel shall deny or partially restrict disclosures authorized by this rule if it finds there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from the disclosure, that outweighs any usefulness of the disclosure to either party." Hassberger, supra approved the "personal safety" exception outlined in United States v. Palermo, 410 F.2d 468 (7th Cir. 1979) wherein (1) an actual, not implied, threat to the witness or to his family must be shown; (2) the government must disclose to the judge in camera the information sought to be withheld from the accused; (3) the judge must then determine whether the facts must be disclosed; and (4) accused must be allowed to show any special need for the information requested. There is no legal reason why this same procedure should not be applied to a defendant refusing to disclose address information on witnesses to be called at trial or hearing particularly in light of the fact that the defendant

has not sought a protective order under Florida Rule of Criminal Procedure 3.220(l)(1). Counsel's stated reason for nondisclosure -- avoiding media harassment -- does not rise to the level of a "threat" contemplated by the Rules or case law.

8. In addition to the concern detailed above, the State of Florida can not adequately address the scheduling of the trial without the legally appropriate notification by the defendant of ALL witnesses she will call during trial.
9. At a hearing on December 12, 2008, the defendant suggested that she had retained a bevy of expert witnesses to assist with her defense. Yet, a year later, not one of these individuals is listed by the defendant, nor have they sought to examine any of the evidence collected either before or after December 11, 2008. The only evidence review to date occurred on November 14, 2008 when Dr. Henry Lee examined the defendant's vehicle at the Orange County Sheriff's Office noting that he would need to return to finish the exam at a later date. He has yet to do so.
10. The defendant has conducted depositions of a few "civilian" witnesses, including several that were not completed and has done no depositions of the law enforcement investigators or any listed expert witness.
11. Certainly the defendant can choose to not review the evidence, or depose particular witnesses, or even file additional motions. However, if the defendant does choose to avail herself of these pretrial processes, the Court should insure that these matters are addressed and concluded within a reasonable period of time prior to commencement of trial so as to not thwart the fair administration of justice. "A trial judge is invested with inherent and expressed powers to manage and control the conduct of a trial and the participants in that trial in all respects. In the context of the adjudicative process, those inherent powers include, among others, the power to preclude the admission of evidence in order to curb litigation abuses; to reasonably manage and control the conduct of the litigation and its participants; to control the mode and interrogation of witnesses; and, to remedy different forms of litigation abuse." *See concurring opinion of Judge Salcines in Grant v. State*, 764 So.2d 804 (2d DCA 2000).

WHEREFORE, the State of Florida respectfully requests that this Honorable Court conduct a hearing on this matter, or alternatively, order the defendant to immediately turn over any and all evidence to include the names and addresses of witnesses, any statements or reports generated by those witnesses, and any tangible papers or objects to be used at hearing or trial. The State additionally requests that this Court enter a pretrial order setting discovery, motion, and hearing deadlines, applicable to both parties, so this matter can proceed to trial as expeditiously as possible.

Respectfully Submitted this 9th day of December, 2009,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was delivered via FAX transmission to Jose Baez, Esquire, attorney for defendant Casey Anthony, 522 Simpson Road, Kissimmee, FL 34744 this 9th day of December, 2009.


LINDA DRANE BURDICK
Assistant State Attorney