

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.

**RESPONSE TO SUPPLEMENTAL MOTION TO COMPEL FORENSIC
DISCOVERY**

AS TO ALL REQUESTES

The State of Florida's discovery obligations are set forth in Fla. Rule Crim. Proc. 3.220(b). Sub section (1)(J) of that rule limits the obligations as they concern expert witnesses to "reports and statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific test, experiments, or comparisons". None of the documents contained in Excel Chart 1 or 2 fall within this rule.

Fla. Rule Crim. Proc. 3.220(f) permits this court to order additional discovery upon a showing of materiality. Materiality in this context is defined as that which is reasonably calculated to lead to admissible evidence. Franklin v. State 975 So.2d 1188 (1st DCA, 2008). The instant motion does not request this material pursuant to Fla. Rule Crim. Proc. 3.220(f) nor does it allege or establish the

specific materiality of the requested documents.

AS TO CHART ONE

The requested documents in Chart One are not alleged to be in the possession of the State of Florida or any of its agencies. As the undersigned has stated on numerous occasions over the two year history of this case any document desired and in the possession of an individual or entity outside of the State of Florida must be obtained thru contact with the individual or entity in possession of that document. The State has been facilitating the voluntary production of documents from out of state entities and to date over 4,000 documents not required by 3.220(b)(1)(J) have been provided to the defense. This court lacks jurisdiction to compel production of documents from entities outside the State of Florida. The undersigned has suggested counseling that they utilize the provisions of foreign counterpart to F.S. 92.251 Uniform Foreign Depositions Law or some version of the Freedom of Information Act to obtain the documents contained in Chart One so that a court with jurisdiction over that entity may adjudicate the validity of the claims.

AS TO CHART TWO

It is axiomatic in the law that the State should not be compelled to obtain additional discovery for the Defendant that she can as easily obtain on her own. It is the States position that any order to requiring the state to obtain and produce a document, not specifically required to be produced by 3.220(b) (1) (J), should be

contingent upon a proper motion and showing pursuant to 3.220(f) and a demonstration that the Defendant cannot obtain the document themselves thru request or an application under F.S. 119.

The State has attached a copy of chart two with specific responses as to the some of the items requested.

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 24th day of May 2009.

 **COPY**

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EXCEL CHART 2

FOR OUTSTANDING REQUESTED DISCOVERY FOR OTHERS THAN OAK RIDGE LABORATORIES

Discovery Request	Prosecution Response (if any)	Requested Items Do Not Exist	Previously Provided	Prosecution Objection	Court's Decision
<p>1. Any applications for ASCLAD or other outside agency certification filed by any lab or evidence handling entity. This includes OCSO forensic unit, the UCF (Dr. Sigmant's lab), the Forensic Toxicology Laboratory at the University of Florida (Dr. Goldberger's lab) who handled the evidence who was not ASCLAD (American Society of Crime Laboratory Directors) certified.</p>	<p>Not discoverable per 3.220(b)(1)(J). OCSO forensic unit is not a crime laboratory and personnel are not listed as experts. UCF and UF are not crime laboratories any documents can be request thru the respective witness or by public records request.</p>				
<p>2. The complete ASCLAD certification documents or proficiency test results from the FBI. However, defendant has been (through Linda Kenney Baden, Esq., attorney for Casey Anthony, and Paula Wulff, Esq., attorney for the FBI crime lab) working this issue out and therefore, the Court's intervention is not requested at this time.</p>	<p>The Court's intervention is not requested at this time.</p>	<p>The Court's intervention is not requested at this time.</p>	<p>The Court's intervention is not requested at this time.</p>	<p>The Court's intervention is not requested at this time.</p>	
<p>3. Some of the evidence was transported to the Florida Department of Law Enforcement (FDLE) Laboratory. Since they did handle the evidence and since according to the attached exhibit the FDLE Regional Crime Laboratory is ASCLAD certified, it is requested that the following items be turned over for the lab and all persons who handled the evidence, logged in the evidence or transported the evidence in this matter:</p>	<p>FDLE performed no analysis in this case and are not listed expert witnesses. Request items are not discoverable under 3.220(b)(1)(J). Request is overbroad. Request should specify exact items that Defendant feels discovery shows were handled by FDLE.</p>				
<p>a. All chain of custody documents</p>					
<p>b. All laboratory submission requests for any and all testing in this matter</p>					
<p>4. It is requested that the following items be turned over for all persons who handled the evidence, logged in the evidence or transported the evidence in this matter:</p>	<p>Same as 3 above Only CVs of experts are required all have been produced if available except Olien FBI, Giroux FBI, Darnell Secret Service no CV for Moore MBI. Updated CVs will not</p>				
<p>a. All updated Curriculum Vitae (CV) of all experts, analysts, examiners, criminalists, and lab personnel.</p>					

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<p>b. With regard to the laboratories of Dr. Goldberger, Dr. Michael Sigman (UCF Chemistry Lab) and any other lab utilized by Drs. Haskell and Hall, any documents from any certifying agency including but not limited to all certifications, results of all testing for units and for individuals, any audits, surveys, reports, or other written documents generated by the certifying agency representatives to the laboratory by the certifying agency or to the certifying agency representatives by the government laboratory unit or for any individual representatives or employees thereof including any recommendations, warning notices, failure notices or any other documents related to proficiency, standards, manuals, procedures or other tangential items concerning or relating to the laboratory, its protocol, analysts, individuals, application of certification or any other documents concerning certifying agency and the lab for the past twelve years.</p>	<p>Not covered by 3.220(b)(1)(J). See response to 1 above.</p>				
<p>c. The name of the Quality Control officer responsible for compliance involving any certification for any lab used in this matter.</p>					
<p>d. Pursuant to any certifying agency certification or any other certifying agency; please provide the following documents, standards, tests, policies, audits and any other written item that relates to, discusses, implements or touches upon the below issues for any LAB or EXAMINER involved in this case. Also to include the names and addresses of inspectors.</p>					
<p>e. All internal audits and reports for the last five years.</p>					
<p>f. All proficiency testing given, the results thereof, administered by any third party or intra unit or agency for any employee, criminalist or agent of any laboratory unit that tested any item for the government in the above matter.</p>					
<p>g. All lab submission requests for any and all testing in this matter.</p>					
<p>h. Any and all stereoscopic photographs or other photographs if personally taken by all persons who reviewed the evidence of the State.</p>					

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Discovery Request	Prosecution Response (if any)	Requested Items Do Not Exist	Previously Provided	Prosecution Objection	Court's Decision
<p>i. For all experts, criminalists, examiners, investigators, and lab personnel please provide: all lab notes, correspondence, pictures and complete copies of formal or informal files kept by the expert including all bench notes, draft reports if same show changes requested either at the direction of the prosecutors or after consultation with the prosecutors, memorializations of telephone conversations relating to the above matter and any photographs in the possession of the expert. Please also provide all notes taken at the time or soon thereafter the review by the expert and all draft reports.</p>					
<p>5. Additionally for the Orange County Sheriff's Department forensic unit, we have not received CV's of Gerald Bloise or Michael Vincent of the OCSO nor have we received any internal audits (even if they are not ASCLAD laboratories) or reports concerning the laboratory, or any proficiency standards, tests, policies, audits or other items relating to the quality control, the standards to be followed or for each individual criminalist who handled the evidence.</p>	<p>Mentioned witness are not experts CVs not required. Also see 1 above.</p>				
<p>6. Any and all ethics disclosure forms filed by any government expert for the last twelve years with any governmental or employment entity (previous Request No. 16). We are requesting same for any criminalist, expert including those from Oak Ridge, Dr. Goldberger's lab at the University of Florida, Dr. Sigman's lab, Dr. Hall, Dr. Haskell or any other identified expert and if the Court feels that 12 years is too long, we request last two ethics or disclosure forms filed, if any.</p>	<p>Not discoverable under 3.220(b)(1)(J). As to florida state employees items are available thru 119 request out of state experts see response to chart one.</p>				
<p>7. Any and all electronic media of, relating to, concerning, directing, communicating by, among, and/or between any of the above persons involving this matter. Electronic media should be supplied raw, as found in the electronic system of the person or entity in which it is found and or printed out, and in a searchable metadata format with a TIFF load (previous Request No. 17).</p>	<p>Not discoverable under 3.220(b)(1)(J). As to florida state employees items are available thru 119 request out of state experts see response to chart one.</p>				

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Discovery Request	Prosecution Response (if any)	Requested Items Do Not Exist	Previously Provided	Prosecution Objection	Court's Decision
<p>8. Fingerprints (NOTE: initially this request applied to both OCSO and FBI since Inv. Bloise has reports on fingerprints in discovery. This now only applies to OCSO as a deposition of the FBI concerning any involvement with fingerprints has already been taken):</p> <p>a. (i) A copy of the latent print and print card as set forth in reports in this matter; (ii) A copy of the 18 fingerprint lifts as set forth in files in this matter; (iii) A copy of the eight areas of latent fingerprint lifts developed with dye stain as set forth in reports in this matter; and (iv) A copy of the fragment of the latent fingerprint lift from the exterior trunk of the vehicle as set forth in files in this matter;</p> <p>b. All photographs, latent lift cards and other duplications of the latent lifts that are in the possession of any law enforcement agency;</p> <p>c. Any and all automated fingerprint searches performed on the above latent fingerprints;</p> <p>d. Any and all bench notes, other notes, or other written memorializations of any visual comparisons made by any criminalist, fingerprint examiner or law enforcement officers including the FBI concerning the above listed latent prints;</p> <p>e. Any and all standards, policies, or checklists concerning points of interest concerning the identification or exclusion regarding fingerprint comparisons.</p>	<p>Print cards can be viewed at ocsso and photographed by Def personnel by appointment</p> <p>All photographs that exist in this case have been provided</p> <p>Any documents that exist have been provided</p> <p>all documents have been provided</p> <p>All FBI documents have been provided no other analysis was performed</p>				
<p>9. Dr. David Hall, forensic botanist: backup notes, e-mails, correspondence, messages or other communications with law enforcement is contained in the discovery, itemizations of reference manuals, photographs, notes of persons consulted, peer reviews, backup notes, lab notes (if any), e-mails, correspondence, and any other memorializations of conversations with law enforcement regarding his retention, analysis or work on this matter including but not limited to, his contract for services and his billing records (previous Request No. 26).</p>	<p>Not discoverable under 3 220(b)(1)(J). Request is overbroad. Billing records will be provided.</p>				

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Discovery Request	Prosecution Response (if any)	Requested Items Do Not Exist	Previously Provided	Prosecution Objection	Court's Decision
<p>10. Neal Haskell, entomologist: all itemizations of reference manuals, photographs, notes of persons consulted, backup notes, lab notes (if any), e-mails, correspondence, and any other memorizations of conversations with law enforcement regarding his retention, analysis or work on this matter including but not limited to, his contract for services and his billing records, including all communications, memorizations, e-mails that relate specifically to the objection to having Haskell have another Board-certified entomologist to receive, as is Haskell's common practice, to send directly to another expert the bugs for their review (previous Request No. 27).</p>	<p>Not discoverable under 3.220(b)(1)(J). Request is overbroad. No contract exists but billing invoice will be provided. This witness is out of state and requests for documents should be directed to him</p>				