

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

STATE OF FLORIDA,

CASE NUMBER: 08-CF-0015606-O

Plaintiff,

Vs.

CASEY ANTHONY,

Defendant.

**REPLY TO DEFENDANT'S RESPONSE TO MOTION TO QUASH THE COURT'S
ORDER ON DEFENDANT'S APPLICATION FOR SUBPOENA DUCES TECUM FOR
THE DOCUMENTS IN THE POSSESSION OF TEXAS EQUUSEARCH BASED ON
BAD FAITH**

COMES NOW, Texas Equusearch, (hereinafter referred to as "TES"), by and through its undersigned attorneys and pursuant to Florida Rules of Criminal Procedure 3.361(c), files its Reply to Defendant's Response to Motion to Quash the Court's Order on Defendant's Application for Subpoena Duces Tecum for the Documents in the Possession of Texas EquuSearch Based on Bad Faith, and as grounds therefore would state:

1. It is apparent that the Defense response is little more than a smoke screen devised to cloud and obfuscate the real issue at hand; that the documents in the possession of TES are no longer relevant to the Defense since Mr. Mason has publicly acknowledged in a television interview to a variety of media outlets that no searchers were able to search the exact area where Caylee Anthony's body was ultimately found (Exhibits A and B). The Defense has repeatedly claimed otherwise in multiple pleadings and media statements, maintaining that TES searchers were indeed at the exact location where Caylee was found.

It was this position that was forwarded by the defense which formed the basis for the Honorable Stan Strickland's previous ruling regarding the limited disclosure of TES records. Moreover, this same position of the Defense also formed the basis of the TES recommendation, as adopted by the Honorable Stan Strickland in his ruling, that the names of those 32 searchers who were in close proximity of where Caylee was found be disclosed, as ground conditions in the immediate area of where she was found was alleged to be relevant and a disputed issue. In light of Mr. Mason's recent public statement which occurred after Judge Strickland's ruling **acknowledging that no searchers were in the area where Caylee was found** the Defense has reversed its previous position upon which the Court and undersigned counsel previously relied. As such, no further release of TES records is appropriate.

2. The Defense forwards a ridiculous claim that there are "scandalous" assertions by TES counsel of what happened the day the files were finally being reviewed. To the contrary, what happened was the epitome of unprofessionalism by the Defendant's counsel. Mark NeJame chose not to personally attend the document review in order to preserve order and allow the Defense counsel in an unobstructed manner to focus on reviewing the documents, and instead had an associate attorney, Jaya Balani, in the office and available for any issues that may have arisen. In order to ensure that the Defense could freely review the documents without an attorney watching over them, Ms. Balani went to her office which was down the hall from the conference room where the review was occurring and stayed available as needed. Ms. Balani informed the Defense and the TES monitor, Bill Fitzgerald, that she was available if any issues arose prior to the inspection. It is acknowledged there were two (2) boxes that Mr. Fitzgerald did not allow the Defendant's attorneys to review **at that moment**.

There were two boxes that Mr. Fitzgerald believed contained TES administrative documents. Unsure whether the Court Order required the disclosure of documents that weren't TES searcher files, which it did not, Mr. Fitzgerald was unsure whether he should release non searcher files without attorney approval. Mr. Mason had Mr. Fitzgerald sign a document stating they could not inspect those two said boxes, however, Mr. Fitzgerald added the words "at this time" to show that the position could change with proper approval. Ms. Balani remained in her office during review process and was available to address any issue which may have arisen. Moreover, Mr. NeJame was on telephone standby throughout in the event he needed to be consulted. Rather than communicating, the defense stormed out of the undersigned's office, spewing and sputtering rude and untrue comments as they rushed out without waiting for or attempting to communicate with Ms. Balani. Moreover, Mr. NeJame received a phone call from his office immediately after the Defense scurried out. Mr. NeJame immediately called Mr. Mason in an effort to professionally resolve the situation, but Mr. Mason never responded to Mr. NeJame's overture. Those two boxes contained administrative documents not related to any of the searches by TES.

3. It appears that the Defense had ulterior motives when they came to purportedly review the documents as they spent but a fraction of the time spent by the State and by Mr. Brad Conway, attorney for the George and Cindy Anthony, grandparents of Caylee Anthony and parents of the Defendant.

Essentially by the Defense taking eight (8) months to finally get around to reviewing the documents, barely reviewing the documents when the inspection finally took place, seeking irrelevant and immaterial records from approximately 4,000 TES searchers, and by attempting to create a smoke screen as to the real issues at hand by making personal, untrue and irrelevant accusations against Mark NeJame, lead attorney for TES it appears that the efforts and desire of the Defense and suspect. By Defendant's counsel ultimately flip flopping their position about the ground and water conditions much like a desperate politician, suggests that the TES document request is being done to harass the many searchers who volunteered their time and hearts in search of Caylee Anthony, but also to create unreasonable delays and create spurious appellate issues.

4. In the Defendant's response they falsely claim that the undersigned compelled a waiver of conflict from Mr. and Mrs. Anthony in exchange for allowing their attorney, Brad Conway, to review the TES files. In the time that the Defense took to write this ludicrous and untrue response, they could and should have performed their due diligence and contacted Brad Conway, attorney for George and Cindy Anthony, who would have informed them that these allegations were frivolous, untrue and lacked any measure whatsoever of truthfulness or veracity. Mr. NeJame has communicated with Mr. Conway as recently as yesterday morning and Mr. Conway reconfirmed **that no consideration was offered whatsoever to review the TES documents** and that Mr. NeJame's act was that of compassion for the grandparents, with no consideration or an expectation of anything in return.

The defense attorneys should have simply done a modicum of work or expended the most minimal effort by checking their facts and calling Mr. Conway, rather than filing deceptive, untruthful, irrelevant and outlandish pleadings. Mr. Conway is an ethical, respected member of the Bar and is well aware of the truth and the facts surrounding this specious allegation contained in Defendant's pleadings and confirms them to be untrue.

5. The Defense seeks cover from their hypocritical and contrary positions by claiming that Mr. Mason's statement to the media on June 21, 2010, stating that the area where Caylee's remains were ultimately found was "**impassable**" (Exhibits A and B), was mischaracterized and only related to the depositions of those searchers listed by the State of Florida. The claim by the Defense that this was "mischaracterized" is nothing more than a shabby spin and feeble attempt to minimize the contradictory and dueling statements that have been made by Mr. Mason and Mr Baez. The Defense Response is simply a ploy to fix their self-induced and self-inflicted mess. They should be held accountable for their contradicting statements and duplicitous positions and not be enabled to cause needless delay, expense and harassment to the innocent, irrelevant and compassionate TES searchers, especially those not in the immediate area.

6. It is alleged by the Defendant's counsel that Mark NeJame advised a writer, David Lohr, that a plea from the State had been offered to Defendant. This is incorrect. However since the Defense opened the door on the issue, and a response is appropriate, the discussion actually was regarding the general opinion from seasoned and experienced attorneys and undersigned counsel's opinion that a competent attorney should have and likely could have worked towards a plea deal that might have possibly secured a deal for 10-15 years for the Defendant, prior to Caylee being found, so long as the Defendant led law enforcement to where Caylee was and truthfully told what happened to her. Once Caylee was found though, such an opportunity was lost and it would have been a monumental mistake not to have at least worked towards that end before Caylee was found.

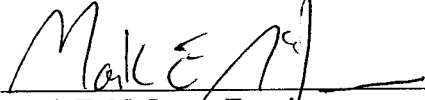
7. TES desires to bring the changing events to the attention of the Court. If this Honorable Court is compelled to release additional names of the TES volunteers to the Defense, TES respectfully requests in the interest of the privacy for the volunteers, that this Honorable Court order that the names obtained by the Defense are not released to the public without first obtaining court approval. This would also apply to the names already provided to the Defense.

8. Regarding the allegation concerning TES counsel's desire for publicity in this matter such a proposition is not only inaccurate but a seemingly desperate attempt to deflect attention from the true issues at hand. To quote the esteemed jurist and former Judge on the case *sub judice*, Stan Strickland, when a similar accusation was also made about him by Defense, "At its core, defense counsel's motion accuses the undersigned of being a "self-aggrandizing media hound". Indeed. The irony is rich."

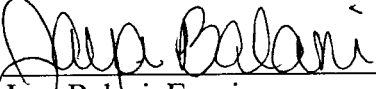
WHEREFORE, the undersigned files this Reply to Defendant's Response and requests that the Motion to Quash the Court's Order on Defendant's Application for Subpoena Duces Tecum for the Documents in the Possession of Texas EquuSearch Based on Bad Faith be granted. The defense is acting in bad faith as it is patently and readily apparent that their efforts amount to little more than a sham and a ruse in that there is not a good faith basis to secure any relevant or material documents and that the efforts are intended to harass, inconvenience and cause unreasonable delay, for those grounds set forth above and further detailed in previous pleadings. Additionally, a request is made to keep the names of all TES volunteers from being released to the public.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail/hand delivery to the OFFICE OF THE STATE ATTORNEY, Linda Drane-Burdick, ASA, 415 North Orange Avenue, Orlando, Florida 32801, Jose Baez, 522 Simpson Road, Kissimmee, Florida 34744 and J. Cheney Mason, 390 N. Orange Avenue, Suite 2100, Orlando, Florida 32801, this 12th day of August, 2010.



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Paragraph 6 from Defendant's Motion to Modify the Court's Order on Defendant's Application for Subpoena Duces Tecum for Documents in the Possession of Texas Equusearch, serving as the basis for Defendant's request.

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...

Statement made to media by J. Cheney Mason on June 21, 2010. (3:24)

Uh yeah, it's been, the public has been made to believe that these people searched the exact area, um, where the body was, or tried to and couldn't. The fact is they didn't try to, and they didn't, they weren't there, and it was impassible at the time. So there's a lot of people who are mistaking things of what happened back in the summer of 2008 and what happened in the Winter of 2008.