

**From:** "[REDACTED], [REDACTED] (USANYS)" <[REDACTED]>

**To:** "[REDACTED]"

**Cc:** [REDACTED]  
[REDACTED]

**Subject:** [EXTERNAL EMAIL] - FW: US v. Maxwell - [conferral re photo and other discovery deficiencies]

**Date:** Fri, 23 Apr 2021 15:50:27 +0000

**Importance:** Normal

**Attachments:** Problem\_Bates\_Numbers\_in\_Client\_Production.pdf

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Hi [REDACTED]

As you can see below, Maxwell's attorneys have asked to be provided copies of the images from the Highly Confidential drives because they claim they are unduly burdensome to review and all contain adult nudity. Would you please give me a call to discuss when you have a moment?

Thanks,  
[REDACTED]

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**From:** Laura Menninger <[REDACTED]>

**Sent:** Wednesday, April 21, 2021 1:42 PM

**To:** [REDACTED]

**Cc:** [REDACTED]  
[REDACTED]  
[REDACTED]

**Subject:** US v. Maxwell - [conferral re photo and other discovery deficiencies]

[REDACTED]:

I'm writing to follow-up on our discussion last Thursday regarding the photo evidence and to address a number of other critical problems with the discovery provided to date.

Unfortunately, both in the production to defense counsel and on the hard-drive supplied by your office to our client at MDC, there are thousands, if not hundreds of thousands, of photos that are still unreadable. We have spent countless hours, and a chunk of our client's resources, trying to rectify a number of these problems ourselves, to no avail. Our ability, and our client's ability, to review all of the discovery in this case is absolutely critical and is constitutionally guaranteed. Unless you can quickly propose a solution, we believe we need to raise this with the Court.

- We do not have a functional copy the Excel spreadsheet located at SDNY\_GM\_00467566. I have confirmed that the original spreadsheet provided to us is corrupt and the vendor and e-discovery provider cannot open it.
- The other two Excel spreadsheets from the production (and presumably the one we cannot open) are insufficiently detailed to tell us which photo goes with which meta-data.
  - The index contains multiple instances of the same "file name" with different hash values.
  - The index does not match any particular file with a Bates stamp.
  - The index does not indicate which files were withheld as "highly confidential."
- Many of the photo files that were provided in discovery (e.g., SDNY011) do not have a discernible reader. I cannot open them. Ms. Maxwell does not have a reader on her MDC laptop that can read them. If the government is able to view them, then we should be provided the means to view them as well.

- A number of photo files appear to be missing from the MDC laptop and are not highly confidential, based on my review of documents last week. Because we do not have a list of what was/was not produced, however, we cannot confirm.
- As you know, the 2 x “highly confidential hard-drives” in NY did not work until Thursday once an appropriate reader was added to the laptop. I did not have enough time to view all of the files. I do not have the reader that you ultimately added to that laptop.
- The discs that I attempted to view in NY (from various binders) would not load on the government laptop. I was unable to match up disks with potential files on the hard-drives. Because I did not have a functioning Excel spreadsheet, I also was not able to match any highly confidential photos from the hard-drives with the associated metadata.

I am requesting that you produce to defense counsel replicas of the two hard-drives that you made available for review last week, subject to all of the strictures of the protective order.

I recognize that you have designated as “highly confidential” photos that you contend contain “nude, partially-nude, or otherwise sexualized images, videos, or other depictions of individuals.” Among the photos on the hard-drive that I was able to view, there were a lot of “nude” and “partially-nude” photos of adults, but I did not see anything that would qualify as child pornography under the statute. Some of the photos only showed a woman’s back or shoulder. If you have reason to believe that there is child pornography contained on the two hard-drives, then certainly defense counsel is not asking to possess that material; you can designate it as such and we can view it at an acceptable location as occurs in any CP case.

Otherwise, I think the burden of reviewing adult nudity only in the government’s office or courthouse imposes an extraordinary cost on our client and prevents us from analyzing the metadata, having our experts review the file structures, keeps us from preparing photos for use at trial, and generally impedes our defense.

In a similar vein, can you let me know when you are willing to disclose any photos that you intend to introduce at trial? As to any of those, I will need sufficient information and time to analyze them for foundation and admissibility purposes with an appropriate expert.

Finally, I am attaching an incomplete list of the documents that our client still cannot read at MDC. It is a small sample, as she has had to spend hours of her “review” time communicating to our staff which files she cannot read. Also, the manner in which the discovery was provided to her (load file format) precludes her from comparing the “image” and the “native” files (they do not, for example, have clearly labeled bates-stamps).

I would appreciate as prompt a response as you can provide so that we can address any issues with the Court on Friday.

Thanks,  
Laura

**Laura A. Menninger** | Partner  
**Haddon, Morgan & Foreman, P.C.**  
150 E. 10th Avenue | Denver, CO 80203

