

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

*In the Matter of Search Warrants Executed on
April 9, 2018*

MICHAEL D. COHEN,

Plaintiff,

- against -

UNITED STATES OF AMERICA,

Defendant.

18-MJ-3161 (KMW)

SPECIAL MASTER REPORT

BARBARA S. JONES, Special Master:

By Order of Appointment, dated April 27, 2018 [Dkt. No. 30] (the “Order”), the Court appointed the Hon. Barbara S. Jones (Ret.) as Special Master to render decisions regarding “privilege issues related to materials seized in the execution of certain search warrants executed on April 9, 2018 (the “Seized Materials”).” *See* Order at 1. This report is submitted to provide the Court and the parties with an update of the Special Master’s progress.

Procedure

The following procedures have been agreed upon by the Plaintiff, Intervenors and the Government:

The Plaintiff and Intervenors shall continue to submit privilege designations to the Special Master as each production is made. These designations identify potentially privileged documents and contain descriptions regarding the nature of the attorney-client relationship, the subject matter, the nature of the advice provided and/or the work product created as a result of that relationship. In addition, the Plaintiff and Intervenors may also submit designations for

highly personal information, such as medical records or similar materials. It is understood by all parties, however, that the Special Master will not conduct a review of all materials for responsiveness. After all privilege or “highly personal” designations are made by the Plaintiff/Intervenors in a production, the remaining, non-designated documents or materials, will be promptly released to the Government.

The parties have also agreed that the designation submissions from the Plaintiff/Intervenors and any subsequent conferences regarding those submissions, which may be necessary to assist the Special Master in making privilege determinations, will be *ex parte*. It is also agreed by the parties that should the Special Master require additional facts or background information to assist her in making privilege determinations, she may also confer with the Government – and receive submissions from the Government – on an *ex parte* basis. The Special Master will not provide designated documents or materials to the Government.

Furthermore, as the Special Master makes her Final Privilege Determinations, she will submit determinations to the Court in a Report and Recommendation, which will include the following categories: (1) Privileged Materials; (2) Partially Privileged Materials; (3) Non-privileged Materials; or (4) Highly Personal materials.

Review and Production Status

In addition to the materials provided to the Special Master on May 4th, 8th, 9th, and 11th as described in the Special Master Report (“Report”) of May 11th, the Special Master has now also received the following productions:

- May 17: Electronic data from mobile storage devices, one computer, two phones, and CDs found in the contents of the eight boxes. This data includes various forms of electronic communications and documents as well as data typically associated with mobile devices and computer usage.

- May 21: Electronic data from a video recorder, two computers, and mobile storage devices. This data includes various video, electronic communications and documents as well as data typically associated with computer usage.
- May 22: Electronic images.

The Special Master has not received productions related to three seized items, and does not have a date by which to expect these items. Once received, this will conclude the productions of all Seized Materials to the Special Master.

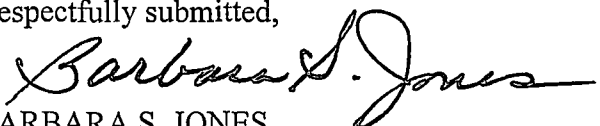
As of today, the Special Master has concluded her review of the May 4th production, which comprised 639 hard copy documents totaling 12,543 pages. She has also concluded her review of the contents of the May 8th and 9th productions based upon the 252 total privilege designations provided by the Plaintiff and Intervenors. The 292,006 items from the first two productions that have not been designated privileged or highly personal by the parties were released to the Government on May 23rd. On or before June 4th, the Special Master will provide the Court with a Report and Recommendation with respect to the privilege determinations as to these first two productions.

The Plaintiffs and Intervenors have submitted designations for the electronic contents of three phones from the May 11th production and approximately 1,025,363 items from these phones have not been designated privileged or highly personal by the parties. Subject to final verification by the Special Master, the items that have not been designated will be released to the Government on May 30th.

The Special Master's review of the remaining items contained in the May 11th, 17th, 21st and 22nd productions is ongoing.

Dated: New York, New York
May 29, 2018

Respectfully submitted,


BARBARA S. JONES
Special Master