



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 5, 2019

BY EMAIL

Scott A. Srebnick, Esq.
201 South Biscayne Boulevard, Suite 1210
Miami, FL 33131
Scott@srebnicklaw.com

**Re: *United States v. Michael Avenatti,*
 *S1 19 Cr. 373 (PGG)***

Dear Mr. Srebnick:

We write in response to your letter dated December 2, 2019, which requests certain information in light of a *New York Times* article dated November 30, 2019 concerning Jeffrey Epstein and alleged videos, and Episode 22 of *The Weekly*, a television series of the New York Times, concerning the same.

In your letter, you cite Federal Rule of Evidence 16(a)(1)(E)(i), the Due Process Clause, *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. However, insofar as your request is premised on the proposition that, as you stated in the email enclosing your letter, the information you seek may constitute impeachment material of potential Government witnesses associated with Boies Schiller Flexner LLP ("BSF"), we understand it to be a request solely for impeachment material under *Giglio* and its progeny. As you are aware, the defendant is not entitled to such material at this time (nor has the Government yet determined precisely which witnesses it will call at trial). Rather, the parties have previously agreed, in writing, that the Government will provide such material, if any exists, on or before January 14, 2020. We are aware of our obligation in this respect, and intend to comply timely.

In any event, to the extent that we understand your request, we do not agree that you are entitled to what you seek, assuming *arguendo* that it exists, and assuming further that the prosecution team (which is not on any Jeffrey Epstein-related investigation) both had it and was at liberty to provide it. See generally *United States v. Agurs*, 427 U.S. 97, 109 n.16 (1976). We also note that Scott Wilson, Esq. has moved from BSF to DLA Piper. Notwithstanding this view, we are available to confer at your convenience regarding your request, to ensure that we understand it fully, and in the interest of seeking to narrow or moot potential disputes in advance of trial.

Please be advised, however, that irrespective of the resolution of your request, we expect that we would object to you offering any evidence or argument concerning the above-referenced allegations, including during your opening statement or in cross-examination, as both improper

and inflammatory. We accordingly request that, if you intend to raise such allegations in any form before the jury, you either move *in limine* on the present schedule, or, if you have not yet decided your position, you inform us sufficiently advance of trial so that we may confer further and then the matter may be raised with the Court. If you do not agree with this request, please advise us.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By:

s/

[REDACTED]

Assistant United States Attorneys

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