

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEVEN J. HATFILL, M.D.,)	
)	
)	
Plaintiff,)	Case No. 1:03-CV-01793 (RBW)
)	
v.)	
)	
MICHAEL MUKASEY)	
ATTORNEY GENERAL, et al.,)	
)	
Defendants.)	
_____)	

NOTICE OF FILING OF SUPPLEMENTAL RECORD EVIDENCE

Third Party James Stewart respectfully submits this Notice of Filing of Supplemental Record Evidence in support of his Motion for Reconsideration (Dkt. 211-1) of this Court’s Order dated August 13, 2007 (Dkt. 201) granting Plaintiff Steven J. Hatfill’s motion to compel him to identify confidential sources.

Attached hereto as Exhibit A is a transcript of the deposition of Victor Walter, an investigative news producer employed by ABC News, which was noticed and taken by counsel for Dr. Hatfill in this action on March 19, 2008. At his deposition, Mr. Walter testified that Ed Cogswell, a public information officer employed by the FBI, communicated specific information to him concerning Dr. Hatfill on multiple occasions in late 2002 through the middle of 2003. *See* Exhibit A at 10:11-12:6. Specifically, Mr. Walter testified that, in a series of conversations with Mr. Cogswell for ABC broadcasts on October 22, 2002, and June 10, 2003, Mr. Cogswell communicated to Mr. Walter the following information about Dr. Hatfill:

- that the FBI was “[‘]building what they described as a growing case of circumstantial evidence” against him, *id.* at 30:22-32:4;

- that he was “the main focus of the FBI,” *id.* at 32:9-33:13; and
- that he was “the one and only suspect in the anthrax murders, even though not a shred of hard physical evidence against him exists,” *id.* at 48:15-49:11.

See also id. at 65:10-22 (Mr. Walter testified that another source, retired FBI agent Arthur Eberhart, disclosed to him during this same period that Dr. Hatfill was “the only ‘person of interest’ in the anthrax investigation”). At the time of these communications, Mr. Walter testified, he promised Mr. Cogswell that his identity would remain confidential. *Id.* at 16:17-20.

Mr. Stewart submits this Notice because, during the same period referenced by Mr. Walter, Mr. Cogswell also served as a confidential source for Mr. Stewart. *See* Dkt. 211-2 at 11; *see also* Declaration of James Stewart (“Stewart Decl.”) (Dkt. 211-4) at ¶¶ 15-16. In addition, in his own deposition in this action, Mr. Stewart testified that the only information at issue he received from a confidential source were disclosures about Dr. Hatfill’s status in the investigation virtually identical to those Mr. Walter has now testified he received from Mr. Cogswell. *See* Dkt. 211-6 (“5/8/2003 Broadcast”) (reporting that “Bioweapons researcher Dr. Steven Hatfill, sources confirm, remains the FBI’s number-one suspect in the attacks”); Dkt. 211-7 (“6/9/2003 Broadcast”) (reiterating previous report that “[b]ioterrorism expert Dr. Stephen Hatfill remains the FBI’s top suspect”); *see also* Stewart Decl. at ¶¶ 9-14 (all other information about Dr. Hatfill contained in the only three broadcasts about which he was questioned was gathered from non-confidential, on-the-record sources); Dkt. 211-9 (“Stewart Dep.”) at 74:9-85:5, 87:14-19, 88:15-89:14, 90:2-15, 91:11-14 (same).

March 28, 2008

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By /s/ Chad R. Bowman

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