

**JUDE T. LACOUR
IN PRO SE INMATE AT ORANGE COUNTY JAIL**

**To: Ms. Karen Gable
Re: 2nd Informal Discovery Request
Date: August 15, 2008**

Ms. Gable

This informal discovery request is being forwarded to Judge Conway and Judge Baker to ensure discovery compliance, which has been denied to me, time and again. I am respectfully requesting that any and all communication between the government and this In Pro Se inmate be done in writing and become a permanent part of Bate Stamped discovery record.

The defendant believes and contends that the prosecutor in charge of this discovery was involved in multiple criminal misconduct before, during and after the Grand Jury indictment. The prosecutor is selectively and consciously protecting corporations, lawyers, pharmacists and elected officials on whose advise this In Pro Se defendant relied on. When the prosecutor receives a specific and relevant request for discovery concerning agents, corporations, lawyers, and pharmacists, the deliberate delay and or failure to make any response is seldom, if ever, excusable. **Substituting justice for harmless procedural typing errors or for improper format is injustice. This In Pro Se and incarcerated inmate has been stripped of all his constitutional rights to competently defend himself and he does not have the benefit of a law library or a computer to comply with local rules that seem to be more important than justice or a fair trial.**

Defendant, Jude Lacour, a federal Inmate at Florida Orange County Correctional Facility, pursuant to the Fifth Amendment to the U.S. Constitution; the Supreme Court's holdings in *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), *United States v. Agurs*, 427 U.S. 97 (1976), *United States v. Bagley*, 473 U.S. 667 (1985), *Kyles v. Whitley*, 514 U.S. 419 (1995) and their progeny; respectfully requests that the prosecutor disclose and provide the information and materials known, or that with the exercise of due diligence, should be known to the government, concerning his May 8, 2008 federal indictment and subsequent arrest.

In a previous discovery request, dismissed by the conflict tainted prosecutor as being overboard, defendant Jude Lacour informed the government that on April 19, 2005, he and approximately 30 employees of Jive Network were ILLEGALLY detained/arrested and interrogated by 50 or so agents from the FBI and other law enforcement agencies. The illegal detentions and interrogations lasted approximately 4/5 hours, following the execution of the search warrant which was approved by Magistrate David Baker on April 15, 2008. It is the defendant's

understanding that the scope of the search warrant was limited to retrieving documentary evidence and not to terrorize, detain, arrest, falsely imprison or interrogate Jive Network employees. **Defendant is respectfully requesting the identities of all agents, employees and non employees who were interviewed before, during and after the April 19, 2005 raid.**

The defendant further believes that the prosecutors and her agents used dubious confidential informants and that the agents were involved in a coordinated and premeditated criminal conspiracy and used the Court and Judge David Baker to issue a legitimate search warrant so as to justify their premeditated illegal activities. Defendant is seeking the questionnaires prepared by the FBI agents to elicit coerced statements from Jive Network employees. **This discovery is needed to demonstrate to the Court that the intent of the prosecutor and her agents was to knowingly obstruct justice and use the search warrant as a pretext to intimidate and engage in illegal activities.**

The prosecutors contention (in her recent discovery letter) that the defendant did not provide a statement during the 4/5 hours he was in custody is patently false. He was questioned without being advised of his constitutional rights and was told to take his business off shore. The agents were aware of his legal representation and that (on the day of the raid) he was supposed to give a deposition in a civil case (Earthlink v. John Does 1-25) that the FBI was tacitly monitoring and involved with. The law firm representing defendant and or his corporation was Akerman Senterfitt. Considering that three judges and a Public Defender had already recused themselves for conflict related issues and or involvement with Akerman Senterfitt law firm, **defendant is respectfully requesting all discovery pertaining to the Earthlink and the identities of government agents and prosecutors who were in contact with Earthlink and Akerman Senterfitt lawyers.**

The defendant believes that the current prosecutor has interfered with his legal representation and stayed in contact only with rogue lawyers who were accommodating the government. Defendant is respectfully requesting all communications between the prosecutor(s) and defendant's multiple attorneys, including but not limited to Chaney Mason, J. Jeffery Dowdy and lawyers from the Akerman Senterfitt law firm. Additionally, the defendant is requesting the names of agents who attempted and or interviewed witnesses and or co-defendants who they knew were legally represented.

Defendant Jude Lacour includes within this request not only evidence that would be admissible at trial, but also information that may lead to the discovery of admissible evidence. Consequently, he is respectfully requesting the whereabouts of any and all witnesses (including confidential informants and undercover agents) to the underlying events of pre and post April 19, 2005 events. The defendant is also seeking discovery and or information concerning attestants that the government DOES NOT ANTICIPATE CALLING AS WITNESSES AT TRIAL and to produce any statements made by or summaries of interviews with such witnesses.

Defendant Jude Lacour notes that the investigation in this case is at least 5 years in the making and that defendant was targeted by the Daytona Beach police officers and an FBI agent from Daytona Beach. The prosecutor was informed in May of 2005 of misconduct involving a member of the FBI task force who “dated” several women, including defendant’s ex-girlfriend, and used these women as informants to advance his investigations. It is difficult for this In Pro Se inmate to seek production of meaningful discovery from the prosecutor who is also a “custodian of discoverable records” that will implicate her and her agents in misconduct. Nonetheless, it is respectfully requested that the prosecutor provide defendant with the identities of all informants and witnesses interviewed by members of the Daytona Police Department personnel.

As of August 14, 2008, defendant has been in custody for approximately 100 days. He is requesting any and all statements and or conversations made on April 19, 2005 and his arrest report and statements made on May 9, 2008. Defendant wishes to renew and supplement his earlier request for such material to file appropriate motions.

Defendant Lacour requests all favorable and exculpatory materials regarding issues of guilt or punishment, and all statements and/or promises, expressed or implied, made to any government witnesses in exchange for their testimony in this case, and all other information which could arguably be used for the impeachment of any government witnesses, pursuant to *Brady, Giglio*, and their progeny. .”).

Defendant Jude Lacour request for the prompt production of these materials prior to his Speedy Trial so that the information may be effectively used. As the prosecutor knows, late disclosure of materials may be a grounds for reversal if a defendant can show prejudice, such as that it came so late that the material could not be effectively used and or that the government deliberately withheld the information to prevent defendant from filing appropriate motions and having a fair trial.

In light of the long and close involvement of other law enforcement agencies and governmental entities in and outside the United States, defendant Jude Lacour includes within this request any *Brady/Giglio* materials possessed by any law enforcement entity or other officials involved in this case, including but not limited to materials possessed by:

(1) Daytona Police Department, and other County, State and Federal agencies involved in this case and related cases regarding the co-defendants.

(2) other federal agencies (including all of their components and their predecessors and successors), including but not limited to the Food and Drug Administration, Federal Bureau of Investigation, the U.S. Postal Service, DEA and Internal Revenue Service. See *Kyles v. Whitley*, 514 U.S. 419, 437 (1995) (“[T]he individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case”

- (3) Any information in which the government believes that a prospective witness has made untruthful or deceptive statements to any law enforcement authorities, the grand jury, in a court of law, or before any other governmental body;
- (4) Any information where the government has impeached the testimony of any prospective witness;
- (5) Any information where the government has taken the position in court that a prospective witness was deceptive or untruthful; and any information that a prospective witness has testified inconsistently to the anticipated testimony in the instant case.
- (6) The defendant requests any evidence that any prospective government witness has engaged in any criminal act that (1) was not prosecuted, (2) resulted in conviction, or (3) is currently pending or under investigation by federal, state or local authorities, or is otherwise being investigated. The Government shall supply the Defendant with a record of prior convictions of any witness who will testify for the Government at trial.
- (7) The defense requests any evidence that any prospective government witness is biased or prejudiced against him, or has a motive to falsify or distort his or her testimony, including law enforcement officers.
- (8) The defense requests the names of any witness who made an arguably favorable or exculpatory statement concerning him, and the contents of such statements.
- (9) The defendant requests that the government examine the personnel files and any other files within its custody, care or control, or which could be obtained by the government, for all testifying witnesses, including testifying officers and agents who may have been controlling or contacting the confidential informants in this case. Defendant Lacour requests that these files be reviewed by the government attorney for evidence of perjurious conduct or other like dishonesty, or any other material relevant to impeachment, or any information that is exculpatory.
- (10) Any information, whether or not memorialized in a written memorandum or report, concerning favorable treatment or other inducements (including, but not limited to, the possibility of foregoing prosecution, lesser charges, reduced sentencing, assistance with immigration/deportation matters (with foreign or domestic authorities), and immunity or other compensation given to, or promised to, any government witness (or any family member, friend, associate) in exchange for his or her assistance to foreign, federal, or state authorities in this or any other case. This should include the date, exact nature, and identity of the person or entity providing such compensation. The Government shall make available any application to the court for immunity of a witness as well as any order issued in response to the application.

(11) All financial and immunity and other arrangements with any potential government witness including but not limited to domestic and foreign agents, investigators, confidential informants, cooperating witnesses, and all other fact and expert witnesses.

(12) Defendant Jude Lacour requests any evidence, including any medical or psychiatric reports or evaluations, tending to show that any prospective witness' ability to perceive, remember, communicate, or tell the truth is impaired; and any evidence that a witness has ever used narcotics or other controlled substances, has ever been an alcoholic, or has any other dependency; any information or records reflecting impairments of sight, hearing, memory, language, or any other physical or psychological disability; and any information and records that any prospective government witness may have suffered from any mental or emotional disease, disorder, or defect during the time period alleged in the indictment.

(13) Any statement, information, or document provided by a prospective government witness that conflicts in whole or in part with (1) the statement of another prospective witness, (2) a prior statement made by the same government witness with regard to the subject matter of the expected trial testimony or witness, and (3) any other document or witness.

(14) Defendant requests that the government provide all relevant information concerning any informants or cooperating witnesses involved in this case. Mr. Lacour requests that the government disclose the identification, location, and communications of, and any agreements or promises with, any informants or cooperating witnesses.

(15) Defendant requests the following information concerning the use of informants, including all *Brady/Giglio/Kyles* and Jencks Acts materials.

(a) The name and address of each cooperating witness.

(b) The case names and numbers of the prosecutions in which the cooperating witness has previously been utilized as a cooperating witness.

(c) The case names and numbers of any trials including administrative hearings or evidentiary hearings at which the cooperating witness has testified concerning his own prior criminal activity, payments or rewards provided to him by the government, efforts made to induce others to participate in criminal activity, or other purported law enforcement-related matters.

(d) Any ledger, sheet, or other document which details the sums paid the cooperating witness or his family in this and other cases in which the informant assisted the government, and the purpose of each such payment.

(e) Any report, document, or information which details the criminal activities of the cooperating witness which were undertaken by him without the authority or approval of the

government, but for which the government has elected, formally or informally, not to prosecute.

(f) FBI rap sheet, NCIC printout, and other records available to the government reflecting the arrest, conviction, and investigative history of the cooperating witness.

(g) Information concerning prior misconduct by the cooperating witness in the performance of his role as an informant including, but not limited to, any prior refusal of the informant to testify for or assist the government, and any prior allegation that the informant entrapped another person to commit an offense or made false statements in connection with a criminal investigation.

(h) Any information concerning alleged misconduct by the cooperating witness other than in his role as a cooperating witness, including misconduct that reflects a lack of candor, truthfulness or law-abiding character of the informant, such as uncharged criminal conduct or fraud.

(i) Any records or information maintained by law enforcement agencies relating to cooperating witnesses utilized in this case, including records concerning:

- (1) Use of a code name;
- (2) Use of an assumed/false identity;
- (3) Reasons for cooperation;
- (4) Whether given a polygraph exam. If so, the results of such an exam and any information that the witness refused or failed to submit to such an exam.
- (5) Contracts executed with any law enforcement agency;
- (6) Any release forms executed by the witness;
- (7) Requirements that he /she protect their false identity;
- (8) Consent to recording any conversation with any party; and
- (9) Contingency fee agreements.

(16) Mr. Lacour requests the names of all unindicted coconspirators whose statements will be offered against Mr. Lacour or another Defendant pursuant to Federal Rule of Evidence 801(d)(2)(E). Evidence relating to the credibility of such statements should also be produced. Mr. Lacour therefore requests all *Brady/Giglio/Kyles* materials relating to co-conspirators' statements, including but not limited to:

- (1) the true identity of the declarant;
- (2) any information regarding whether the declarant, or Mr. Lacour were not members of the conspiracy at the time of the alleged statement;
- (3) any information that negates or calls into question that the statement was made in furtherance of the conspiracy; and
- (4) any information that otherwise reduces or calls into question the reliability of

the statement, including but not limited to any retractions of previous statements.

(17) Mr. Lacour requests all material to which he is entitled pursuant to the Jencks Act, 18 U.S.C. § 3500, and Federal Rule of Criminal Procedure 26.2. Mr. Lacour includes within his request any materials for prospective foreign witnesses and requests that the government obtain such materials for all prospective foreign witnesses.

Respectfully,

Jude Lacour
In Pro Se