

APPENDIX A
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

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Clerk - Southern District of Florida September 23, 2021
U.S. District Court
400 N MIAMI AVE
MIAMI, FL 33128-1810

Appeal Number: 21-12456-JJ
Case Style: Corey Zinman v. Nova Southeastern University, Inc., et al
District Court Docket No: 0:21-cv-60723-RAR

The enclosed copy of this Court's Order of Dismissal is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Tiffany A. Tucker, JJ/lt
Phone #: (404)335-6193

Enclosure(s)

DIS-4 Multi-purpose dismissal letter

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-12456-J

COREY J. ZINMAN,

Plaintiff-Appellant,

versus

NOVA SOUTHEASTERN UNIVERSITY, INC.,
SOUTH FLORIDA STADIUM LLC,
BROWARD COUNTY, a Florida County and Political Subdivision of the State of
Florida,
BERTHA HENRY,
individually,
MIAMI-DADE COUNTY,
a Florida County and Political Subdivision of the State of
Florida, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

Before: GRANT, LUCK, and LAGOA, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. The magistrate judge's July 14, 2021 order granting the renewed motion for a protective order is not a final order because it did not end the litigation on the

merits, as the case is still pending before the district court. *See World Fuel Corp. v. Geithner*, 568 F.3d 1345, 1348 (11th Cir. 2009). Furthermore, the order is neither final nor immediately appealable because the district court has not entered an order rendering the magistrate judge's decision final. *See 28 U.S.C. § 1291; Donovan v. Sarasota Concrete Co.*, 693 F.2d 1061, 1066-67 (11th Cir. 1982) (providing that decisions by a magistrate judge pursuant to 28 U.S.C. § 636(b) are not final orders and may not be appealed until rendered final by a district court). Appellant did not first appeal the magistrate judge's decision to the district court, which deprived the district court of an opportunity to effectively review the magistrate judge's order, and it is well settled that we cannot hear appeals "directly from federal magistrates." *See United States v. Schultz*, 565 F.3d 1353, 1359 (11th Cir. 2009). Accordingly, we lack jurisdiction over this appeal.

All pending motions are DENIED as moot. No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir. R. 27-2 and all other applicable rules.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-12456-J

COREY J. ZINMAN,

Plaintiff-Appellant,

versus

NOVA SOUTHEASTERN UNIVERSITY, INC.,
SOUTH FLORIDA STADIUM LLC,
BROWARD COUNTY, a Florida County and Political Subdivision of the State of
Florida,
BERTHA HENRY,
individually,
MIAMI-DADE COUNTY,
a Florida County and Political Subdivision of the State of
Florida, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

Before: GRANT, LUCK, and LAGOA, Circuit Judges.

BY THE COURT:

Corey Zinman's October 13, 2021 motion for reconsideration of our
September 23, 2021 order dismissing this appeal for lack of jurisdiction is
DENIED.

APPENDIX C

RECORD NO. 21-12456-JJ

In The
United States Court of Appeals
For The Eleventh Circuit

COREY J. ZINMAN,

Plaintiff – Appellant,

v.

NOVA SOUTHEASTERN UNIVERSITY, et al.,

Defendants – Appellees.

**ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF FLORIDA**

APPELLANT'S MOTION FOR RECONSIDERATION

*Corey J. Zinman
E-Mail: cb2770@mynsu.nova.edu
175 Sedona Way,
Palm Beach Gardens, FL 33418
Telephone: (561) 566-9253*

Pro Se Plaintiff

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CASE NO. 21-12456-JJ

COREY J. ZINMAN

Plaintiff - Appellant,

v.

**NOVA SOUTHEASTERN UNIVERSITY, SOUTH FLORIDA STADIUM, LLC,
BROWARD COUNTY, BERTHA HENRY, MIAMI-DADE COUNTY,**

Defendants - Appellees,

**On Appeal From the
United States District Court
For the Southern District of Florida**

**APPELLANT'S CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Appellant Zinman (hereinafter "Appellant"), pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and 11th Circuit Rule 26.1-1, hereby files this Certificate of Interested Persons and Corporate Disclosure Statement, and certifies that the following persons or entities have an interest in the outcome of this appeal, listed in alphabetical order with descriptions:

1. Bean, Benjamin, Counsel for Defendant-Appellee Nova Southeastern University and Counsel for Defendant-Appellee South Florida Stadium, LLC.

2. Beauchamp, Richard, Counsel for Defendant-Appellee Nova Southeastern University and Counsel for Defendant-Appellee South Florida Stadium, LLC.
3. Broward County Office of the County Attorney, Counsel to Defendants-Appellees Broward County and Bertha Henry.
4. Henry, Bertha, Defendant-Appellee.
5. Jarone, Joseph, Counsel for Defendants-Appellees Broward County and Bertha Henry.
6. Katzman, Adam, Counsel for Defendants-Appellees Broward County and Bertha Henry.
7. McIntosh, Kristen, Counsel for Defendants-Appellees Broward County and Bertha Henry.
8. Meyers, Andrew J., Counsel for Defendants-Appellees Broward County and Bertha Henry.
9. Morse, Lauren, Counsel for Defendant-Appellee Miami-Dade County.
10. Murray, David, Counsel for Defendant-Appellee Miami-Dade County.
11. Nova Southeastern University, Defendant-Appellee
12. Ruiz, Rodolfo, A., II, The Honorable District Judge, U.S. District Court for the South District of Florida.

13. South Florida Stadium, LLC, Defendant – Appellee.
14. Straus, Jared M., The Honorable Magistrate Judge, U.S. District Court for the Southern District of Florida.
15. Zinman, Corey, S. *pro se* Plaintiff - Appellant.
Appellant hereby certifies that no publicly traded company or corporation has an interest in the outcome of this case or appeal.

Respectfully submitted,



Corey J. Zinman
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Appellant, Corey J. Zinman (“Zinman”), pursuant to 11th Cir. R. 27-2, respectfully moves the Court to reconsider its September 23, 2021 order dismissing this appeal for lack of jurisdiction. In support of this Motion, Zinman hereby states as follows:

1. On September 23, 2021, this Court dismissed this appeal, *sua sponte*, for lack of jurisdiction before Zinman had been allowed an opportunity to brief any of the issues that he intended to raise regarding the July 14th order granting Defendant’s renewed motion for a protective order. In doing so, the Court emphasized the fact that “Appellant did not first appeal the magistrate judge’s decision to the district court” and further relied upon its holding in *Schultz* to support the notion that “it is well settled that [appellate courts] cannot hear appeals ‘directly from federal magistrates.’” *See United States v. Schultz*, 565 F.3d 1356 (11th Cir. 2009). Notably, however, in *Schultz*, this Court recognized that it will “review challenges to a magistrate judge’s authority even when the [petitioner] has not objected in the district court,” albeit “only for plain error.” *Id.* at 1353 (citing *United States v. Desir*, 257 F.3d 1233, 1235 (11th Cir. 2001)).
2. Knowing that Zinman was challenging the authority of government entities and private corporations to enforce arbitrary and inherently discriminatory mask mandates against those for whom compliance with such mandates would conflict with their sincerely held religious beliefs, it was error for the magistrate judge to schedule an in-person hearing in the first place. Nonetheless, the

magistrate judge had almost 6 hours on the day of the hearing to postpone the hearing or to arrange for Zinman to attend remotely; he simply chose not to do either which was error in and of itself. Furthermore, although it's inconceivable that Defendants could've somehow been prejudiced by granting Zinman's request to attend the hearing remotely, if the magistrate judge were truly so concerned about that, he could've easily arranged for all parties to have the option to attend remotely. Accordingly, it was error for the magistrate judge to refuse to allow Zinman to attend the hearing remotely upon that basis. Moreover, pursuant to S.D. Fla. L.R. 7.1(c)(1), "each party opposing a motion shall file and serve an opposing memorandum of law no later than fourteen days after service of the motion." Nevertheless, knowing that Zinman is proceeding pro se and was busy studying for the Florida Bar Exam at the time, the magistrate judge took it upon himself to impose an accelerated briefing schedule upon Zinman by requiring that any response to the motion be filed by July 13, 2021, less than five full days after it was filed and served on July 8, 2021. As such, separate and apart from scheduling an in-person hearing knowing that Zinman wouldn't be able to attend in addition to his arbitrary refusal to allow Zinman to attend the hearing remotely, the magistrate judge erred by failing to allow Zinman at least fourteen days to respond to Defendant's motion prior to the issuance of the July 14th order. Lastly, while pro se litigants generally aren't entitled to special treatment from the judge assigned to their case, the magistrate

judge nevertheless had a duty to ensure that Zinman didn't lose his right of meaningful access to the courts due to ignorance of his right to appeal the July 14th order directly to the district court and of the consequences that would result if he failed to exercise that right. *See Balistreri v. Pacifica Police Dept*, 901 F.2d 696, 699 (9th Cir. 1988). Notwithstanding, the magistrate judge failed to advise Zinman of his right to appeal the July 14th order directly to the district court and of the consequences that would result if he failed to exercise that right. As a direct result, relevant evidence that would've tended to support Zinman's claim for discrimination against Defendants NSU and SFS was irretrievably lost. Thus, the magistrate judge's actions constitute plain error as they infringed upon Zinman's substantial rights accorded to him under the Constitution and laws of the United States thereby seriously affecting the fairness of the judicial proceedings. *See United States v. Lejarde-Rada*, 319 F.3d 1288, 1291 (11th Cir. 2003).

3. Additionally, this Court has jurisdiction to review the merits of the July 14th order granting Defendant's renewed motion for a protective order under A) the collateral order doctrine; B) 28 U.S.C. § 1292(a)(1); and/or C) the pragmatic finality doctrine.
4. Zinman initially intended to attach a memorandum in support of this Motion, however, due to his inexperience as a pro se litigant, he wasn't aware that the word limits for motions filed pursuant to Federal Rule of Appellate Procedure

27 (“FRAP”) are significantly lower than that for briefs filed pursuant to FRAP 32. Unfortunately, 5,200 words is simply insufficient for Zinman to be able to fully brief this Court regarding the important constitutional issues presented by this Appeal. Accordingly, Zinman seeks an order from this Court vacating its September 23, 2021 order dismissing the instant appeal for lack of jurisdiction and further granting Zinman leave to fully brief the issues presented by this Appeal in accordance with FRAP 32.

CONCLUSION

For the foregoing reasons, Zinman respectfully requests that this Court vacate its September 23, 2021 order dismissing the instant appeal for lack of jurisdiction and further granting Zinman leave to fully brief the issues presented by this Appeal.

A handwritten signature in black ink, appearing to read "Corey J. Zinman", is written over a horizontal line.

CERTIFICATE OF COMPLIANCE

This Motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5), the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6), and the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A), because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font and contains less than 5,200 words.

Corey J. Zinman

APPENDIX D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CV-60723-RUIZ/STRAUSS

COREY J. ZINMAN,

Plaintiff,

v.

NOVA SOUTHEASTERN UNIVERSITY, INC., *et al.*,

Defendants.

/

ORDER ON RENEWED MOTION FOR PROTECTIVE ORDER

THIS MATTER came before the Court for a hearing on July 14, 2021 upon Defendant, South Florida Stadium LLC's, Renewed Motion for Protective Order and Incorporated Memorandum of Law ("Motion") [DE 60]. The Court notes that Plaintiff received proper notice of the hearing but failed to appear at the hearing.¹ The Plaintiff also had an opportunity to file a written response to the Motion (see DE 61) but declined to do so. Nevertheless, the Court considered the Motion on its merits. For the reasons stated on the record at the hearing, and with the Court being otherwise fully advised in the premises, it is **ORDERED and ADJUDGED** that:

1. The Motion is **GRANTED**.
2. South Florida Stadium LLC is required to preserve photographs, videotapes or surveillance footage from the day of Nova Southeastern University, Inc.'s commencement ceremonies (from 1 hour before the ceremonies to 1 hour after the ceremonies). It is under no obligation to preserve footage of the University of Miami's commencement ceremonies in May

¹ Plaintiff's mother appeared at the hearing. However, she was not permitted to represent Plaintiff at the hearing as she is not an attorney. Nor is she a party to this case.

2021, footage of the Floyd Mayweather vs. Logan Paul boxing exhibition on June 6, 2021, or other footage outside of its standard document/video retention policy.

DONE AND ORDERED in Fort Lauderdale, Florida, this 14th day of July 2021.



Jared M. Strauss
Jared M. Strauss
United States Magistrate Judge

APPENDIX E

1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CV-60723-RAR

COREY J. ZINMAN,

Fort Lauderdale, Florida

Plaintiff(s),

July 14, 2021

vs.

NOVA SOUTHEASTERN UNIVERSITY,
INC., *et al.*,

Defendant(s) : Pages 1 - 20

MOTION HEARING

TRANSCRIBED FROM DIGITAL AUDIO RECORDING
BEFORE THE HONORABLE JARED M. STRAUSS
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE DEFENDANT(S): BENJAMIN P. BEAN, ESQ.
Nova Southeastern PANZA MAURER & MAYNARD, P.A.
University, South 2400 E Commercial Boulevard
Florida Stadium Fort Lauderdale, FL 33301
(954) 390-0100
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1 APPEARANCES (CONT'D)
2
34 FOR THE DEFENDANT(S) : KRISTEN M. MCINTOSH, ESQ.
5 BROWARD COUNTY ATTORNEY'S OFFICE
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7 Fort Lauderdale, FL 33301
8 (954) 357-7600
9 kmmcintosh@broward.org10 FOR THE DEFENDANT(S) : LAUREN E. MORSE, ESQ.
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TRANSCRIBED BY: Joanne Mancari, RPR, CRR, CSR
Court Reporter
jemancari@gmail.com

1 Thereupon,

2 the following proceedings were held:

3 THE COURT: Calling case No. 21 CV 60723, Corey J.
4 Zinman v. Nova Southeastern University, Inc., South Florida
5 Stadium, LLC, Broward County, Bertha Henry, Miami-Dade County,
6 Palm Beach County, and Carey Haughwout.

7 Could I please have appearances from the parties
8 present, starting with the plaintiff.

9 Is Mr. Zinman present?

10 MS. ZINMAN: He is not. I am here to represent.

11 THE COURT: Ma'am. Who are you, ma'am?

12 MS. ZINMAN: My name is Michelle Zinman.

13 THE COURT: I understand you are Mr. Zinman's mother?

14 MS. ZINMAN: Yes. Your Honor, my name is Michelle
15 Zinman and I'm appearing today on behalf of the plaintiff who
16 could not appear today due to religious objections of the
17 court's mask policy.

18 THE COURT: Hold one second, Ms. Zinman. Are you an
19 attorney?

20 MS. ZINMAN: No, I am not.

21 THE COURT: OK.

22 MS. ZINMAN: I just wanted -- he needed to be here and
23 he can't come in because of the mask. He is downstairs.

24 THE COURT: We will address that in just a moment.

25 MS. ZINMAN: Yes, sir.

1 THE COURT: Right now I am just asking for
2 appearances, and Mr. Zinman is not here nor does he have an
3 attorney to represent him.

4 Let me get appearances from any of the defendants who
5 are present.

6 MR. BEAN: Your Honor, should I approach the podium?

7 THE COURT: Either from the podium or from the table,
8 whichever you are most comfortable with.

9 MR. BEAN: Good afternoon, your Honor. Benjamin Bean,
10 with Panzer Maurer & Maynard, in Fort Lauderdale on behalf of
11 South Florida Stadium, LLC, and Nova Southeastern university.

12 THE COURT: OK. Good afternoon.

13 MR. BACH-ARMAS: Good afternoon, your Honor. Marcus
14 Bach-Armas. I am the senior director of legal and government
15 affairs for the Miami Dolphins. I am in-house counsel. I am
16 here representing the stadium.

17 THE COURT: OK. I'm sorry, sir. Could you say your
18 name again, please.

19 MR. BACH-ARMAS: Marcus Bach, B-A-C-H. Armas,
20 A-R-M-A-S. It's a hyphenated last name, your Honor.

21 THE COURT: OK. Mr. Bach-Armas and Mr. Bean.

22 MR. BACH-ARMAS: Correct.

23 THE COURT: You are here on behalf of South Florida
24 Stadium.

25 MR. BACH-ARMAS: As a party, yes, your Honor. Not as

1 the attorney.

2 THE COURT: I'm sorry. Mr. Bean, you are here
3 representing South Florida Stadium.

4 MR. BEAN: Yes, your Honor. Yes, your Honor.

5 THE COURT: OK. Are there any other defendants who
6 are present?

7 MS. MCINTOSH: Good afternoon, your Honor. Kristen
8 McIntosh, from the Broward County Attorney's Office, on behalf
9 of Broward County and Bertha Henry.

10 THE COURT: Good afternoon, Ms. McIntosh.

11 MS. MORSE: And good afternoon, your Honor. Lauren
12 Morse on behalf of the Miami-Dade County.

13 THE COURT: Good afternoon, Ms. Morse.

14 We are here for a hearing on docket entry 60, which
15 was defendant South Florida Stadium's renewed motion for
16 protective order regarding certain parts of plaintiff's first
17 request for production.

18 I set this hearing on July 8th by a paperless order
19 that is docket entry 61. That order indicated that we would
20 have an in-person hearing -- that language was in bold --
21 regarding docket entry 60 today at 3:00 here in Fort
22 Lauderdale. It gave the address.

23 The order indicated that any response to the motion
24 should be filed by July 13, 2021 -- that was yesterday -- and
25 it instructed counsel for the movant to promptly email a copy

1 of the order to the plaintiff and file a certificate of service
2 that they had done so.

3 On later that day, July 8th, at docket entry 63, a
4 certificate of service was filed by Nova Southeastern
5 University indicating service of the paperless order for the
6 in-person hearing today.

7 No response to the motion has been filed.

8 I have reviewed the motion as well as the attachments
9 to the motion, which consisted of a copy of the plaintiff's
10 first request for production as well as the sworn declaration
11 of Kimberly Rometo.

12 Before we go any farther, I do want to address
13 Mr. Zinman's contact with my chambers this morning. We did
14 receive three phone messages that, as I indicated on docket
15 entry 66, which was a paperless order I entered this morning,
16 and I will get to the substance of those calls in a moment, let
17 me explain why I set this hearing to occur in person in the
18 courtroom. I did that because of some of the course of
19 proceedings that I was able to observe from the docket that we
20 have had already in this case.

21 We have had the plaintiff file a Rule 11 motion for
22 sanctions against defense counsel. We have had defense counsel
23 file a motion to strike briefing by the plaintiff. We now have
24 the instant discovery dispute, which I am going to address the
25 substance of in a moment but which is the kind of dispute which

1 ordinarily the court would expect could be resolved through
2 reasonable conferral between the parties.

3 So based on the interactions between the parties that
4 I was able to observe from the docket, I thought it was
5 particularly important to have an in-person hearing in the
6 hopes of having the most productive and professional hearing
7 possible.

8 I want to emphasize that remote hearings are very
9 useful tools in many situations. They are often sufficient for
10 addressing the issues before the court. Here I thought an
11 in-person hearing was important to crystallize the discovery
12 issue in dispute, emphasize the importance of all the
13 proceedings that we are having in this case, and again to
14 ensure that we have a productive hearing.

15 Now, Mr. Zinman contacted my chambers by telephone
16 this morning about whether he could arrange to appear remotely.
17 The first message was received at 8:36 a.m., indicating that
18 he, quote, just realized that the hearing was scheduled to take
19 place in person and he requested to appear remotely, quote,
20 because I was feeling a little under the weather.

21 In the second message, which came about 26 minutes
22 later, at 9:02, he again requested the ability to appear
23 remotely, without mentioning any illness or giving any other
24 reason for the request. He then followed up with a third
25 message just 16 minutes later, that is at 9:18 a.m., indicating

1 that he had spoken to the clerk, who I understand to be my
2 courtroom deputy, and that he was informed of the court's
3 policy that in order to gain entrance into the courthouse he
4 would need to wear a mask and could only remove it if
5 vaccinated. So on that basis he was requesting the ability to
6 appear remotely, indicating that he would like to attend the
7 hearing without having to, in his words, sacrifice his
8 religious beliefs, which is what the case was all about.

9 Now, I did not grant Mr. Zinman's request to appear
10 remotely for a couple of different reasons.

11 First, the request came on the day of the hearing,
12 despite that hearing having been set six days earlier and
13 Mr. Zinman apparently getting notice of the hearing six days
14 earlier in a very simple order that very clearly and in bold
15 language indicated that it would be in person.

16 Second, that request came through an ex parte
17 communication with chambers rather than through a motion filed
18 on the docket and without any proper conferral with opposing
19 counsel.

20 So based solely on the process even of having received
21 the request at the time we did and in the manner that we did,
22 it did not appear to me a request that we could grant at such a
23 late time.

24 I was also I need to say troubled by the potential
25 inconsistency that I observed from Mr. Zinman in terms of the

1 reasons why he was asking for the accommodation. That is his
2 word, the accommodation. First, indicating that he was feeling
3 a little under the weather and then later indicating that it
4 was because of the court's mask policy.

5 Now, let me make very clear that as to Mr. Zinman's
6 description of the court's mask policy, I want to emphasize the
7 policy requiring all entrants into the courthouse to wear a
8 mask is a court-wide policy that has been established by the
9 district judges of this court, and I have no control or
10 discretion over that policy. Individual judges do have
11 discretion within their courtrooms, and my consistent practice,
12 and I should have said this at the beginning for everyone to
13 hear, my consistent practice has been to allow vaccinated
14 individuals to remove their masks when and only when it is
15 their opportunity to speak. In my judgment, that is the safest
16 and best way for us to proceed.

17 Anyway, I wanted to make it clear that that was the
18 reasoning behind the paperless order I entered at docket entry
19 66 indicating that we were going to proceed with the hearing as
20 it was scheduled.

21 Now, Mrs. Zinman, respectfully, ordinarily in court
22 the only people that are allowed to represent a party are
23 either an attorney for that party or the party themselves. I
24 certainly do not mean any disrespect to you, and I certainly
25 appreciate your willingness to come in to speak on your son's

1 behalf, but --

2 MS. ZINMAN: Just to read a statement.

3 THE COURT: I do understand that, but again,
4 ordinarily the rules are that the only person that can speak on
5 behalf of a party are either themselves or their attorney, and
6 I hope you understand that.

7 MS. ZINMAN: Yes, sir.

8 THE COURT: As to the substance of the motion, as I
9 said, I have reviewed the motion. The order setting the
10 hearing invited a written response, and I haven't received a
11 written response.

12 I have reviewed the motion, but let me hear from the
13 defendant if you could provide an argument for the basis of the
14 motion and if you could also proffer the -- as I understand it,
15 the motion is seeking to be relieved of the obligation to
16 preserve the video associated with the plaintiff's request for
17 all the video of -- it is copies of any and all photographs,
18 videotapes and surveillance footage from all commencement
19 ceremonies hosted by Hard Rock Stadium in May of 2021, as well
20 as copies of any photographs, videotapes or surveillance
21 footage from commencement ceremonies hosted by Hard Rock
22 Stadium in May of 2021. Sorry. I think I might have just read
23 the same thing twice.

24 Those are both Nos. 5 and 6. And, then also request
25 No. 8 is for copies of any photographs, videotapes or

1 surveillance footage from the Floyd Mayweather/Logan Paul fight
2 hosted by Hard Rock Stadium on Sunday, June 6, 2021.

3 My understanding is, while discovery is stayed at the
4 moment and so there is no obligation to produce any of those
5 items as of yet, the defendant is asking for a protective order
6 to excuse them from having to preserve any of that material
7 other than the video connected with the commencement for Nova
8 Southeastern. Is that my understanding? Is my understanding
9 correct?

10 MR. BEAN: Your Honor, may I approach?

11 THE COURT: Sure. Again, if you would like to speak
12 from the podium or from the table, either one.

13 MR. BEAN: Thank you, your Honor. Again, Benjamin
14 Bean on behalf of South Florida Stadium, LLC.

15 Your Honor, South Florida Stadium is the corporate
16 entity that operates the Hard Rock Stadium.

17 NSU and South Florida Stadium entered into a contract
18 whereby NSU would utilize the Hard Rock Stadium for its 2021
19 commencement ceremonies.

20 The plaintiff is a former law student at NSU and was
21 scheduled to participate in those 2021 commencement ceremonies.
22 So that is the way that South Florida Stadium has become tied
23 into this litigation.

24 The plaintiff filed a second amended complaint, your
25 Honor, on May 27th. In that second amended complaint the

1 plaintiff detailed a couple of requests for accommodation that
2 he had made to NSU. He had requested an accommodation to
3 participate in a field clinic with the Palm Beach County Public
4 Defender's Office, and the accommodation he requested was that
5 he could participate in person without having to wear a mask.
6 Setting aside whether NSU has any authority or whether it is
7 possible for NSU to grant that type of accommodation, it was
8 denied.

9 The plaintiff also pled in the second amended
10 complaint that he had later requested that NSU amend its campus
11 guidelines to provide for religious accommodations to NSU's
12 mask policy. Notably, the plaintiff did not include any
13 allegations in the second amended complaint that he had
14 requested an accommodation from South Florida Stadium for the
15 NSU commencement or otherwise, that he was denied any
16 accommodation by South Florida Stadium, that he had attempted
17 to gain entry to South Florida Stadium's property, or that he
18 was denied entry or removed from the Hard Rock Stadium.

19 So NSU and South Florida Stadium filed their motion to
20 dismiss on June 9th. That motion to dismiss is fully briefed.
21 While that motion to dismiss was pending, the plaintiff filed
22 the discovery requests, specifically the requests for
23 production -- or didn't file but served the requests for
24 production, that your Honor has already summarized, seeking all
25 surveillance and photographs from all commencement ceremonies

1 at the Hard Rock in May 2021 and all surveillance photographs
2 from the Mayweather/Paul fight.

3 The court then entered the order at docket entry 52
4 staying discovery pending resolution of the motions to dismiss.
5 However, the problem that has given rise to this renewed motion
6 for protective order is that in the meantime South Florida
7 Stadium has a footage retention policy that requires them to
8 preserve surveillance footage for 60 days.

9 South Florida Stadium has 650 cameras, approximately
10 85,500 hours of footage responsive to these specific requests,
11 and simply to maintain -- simply to preserve this amount of
12 footage would require the retention of outside vendors and the
13 rental of additional server space. It is just an enormous
14 amount of data to preserve.

15 Rule 26(b), your Honor, sets forth a common sense
16 approach to proportionality and relevance for the scope of
17 discovery.

18 The requests are not relevant to any of the issues
19 that are framed by the plaintiff's second amended complaint.
20 The plaintiff's claim is that -- his conclusory claim is that
21 South Florida Stadium intentionally discriminated against him
22 by refusing to accommodate his religious beliefs.

23 Setting aside the motions or the arguments in the
24 motion to dismiss related to the absence of any supporting
25 allegations for that conclusion, the fact of the matter is that

1 any footage of the Floyd Mayweather/Logan Paul fight or the
2 University of Miami's commencement ceremonies would not have
3 any bearing on any of the ultimate issues related to the
4 plaintiff's claims against South Florida Stadium, which are for
5 intentional religious discrimination under Title II and a 1983
6 claim.

7 So under Rule 26(c), your Honor, the court has wide
8 discretion for good cause to enter a protective order to
9 protect a party from annoyance, embarrassment, oppression, and
10 undue burden. Here, the requests are unduly burdensome, they
11 are overbroad, and we think a protective order is necessary in
12 this case on those grounds.

13 THE COURT: And based on the sworn declaration that
14 was attached to your motion from Kimberly Rometo, that
15 proffered that the cost of preserving the 85,500 hours of
16 surveillance footage would cost well more than \$20,000. Is
17 that your understanding?

18 MR. BEAN: Yes, your Honor.

19 THE COURT: And is that over and above what would
20 normally be incurred in terms of preservation of this data in
21 the ordinary course of business?

22 MR. BEAN: Yes, your Honor.

23 THE COURT: OK. If I understood correctly, it seemed
24 like what you are asking the protective order to do is to
25 relieve South Florida Stadium of having to preserve all of the

1 video requested with the exception of video connected to the
2 Nova Southeastern commencement. Is that correct?

3 MR. BEAN: So, your Honor, what we would request from
4 the court and what we think is appropriate would be an order
5 limiting the requirement for South Florida Stadium to maintain
6 footage to the footage of the actual commencement.

7 Again, there's 650 cameras on the Hard Rock property.
8 Some of these are indoors. They are in office spaces. They
9 could be anywhere in this stadium. In all likelihood a
10 majority of them are not going to be showing the commencement
11 ceremonies, they are not going to be showing students whether
12 they are masked or unmasked. I don't want to get into whether
13 or not even that footage is relevant, because I don't think it
14 is, but in order to, and what we proposed to the plaintiff, in
15 order to kind of limit this and make this reasonable for
16 everyone would be that we would limit the required preservation
17 to the cameras that were capturing the actual commencement
18 ceremony.

19 THE COURT: OK. Is there anything further you would
20 like to add, Mr. Bean?

21 MR. BEAN: No, your Honor. Thank you.

22 THE COURT: Thank you very much.

23 I have considered the motion and the argument and the
24 attachments to the motion, and I do think the motion is well
25 founded. Let me emphasize again just for the record that I am

1 going to be granting the motion. I am not granting it by
2 default as any sort of sanction for Mr. Zinman not appearing
3 here today, but I do want to emphasize that he was given the
4 opportunity to respond in writing in addition to appearing here
5 today and no response has been filed or otherwise received.

6 Having reviewed the motion, the defendant is correct
7 that the Rule 26(b) limits the scope of discovery to matters
8 that are relevant and proportional to the needs of the case. I
9 honestly don't see the relevance, as defense counsel has
10 argued, I don't see the relevance of any video footage for
11 ceremonies or events, including the Mayweather/Paul fight,
12 beyond the Nova Southeastern commencement ceremony. Even if
13 they were relevant to, that footage to the claims the plaintiff
14 has made, I think they are clearly not proportional to the
15 needs of the case.

16 Under Rule 26(b), determining the proportionality
17 requires considering the importance of the issues at stake, the
18 amount in controversy, the parties relative access to relevant
19 information, the parties' resources, the importance of the
20 discovery in resolving the issues, and most importantly here,
21 whether the burden or expense of the proposed discovery
22 outweighs its likely benefit.

23 To me, again, even assuming there is some relevance,
24 what strikes me is that with 85,000 plus hours of video
25 footage, I cannot conceive how the plaintiff will be able to

1 review, much less make use of that amount of footage even to
2 the extent that it is relevant. Based on that assessment, I
3 don't think, even if there is any relevance, I don't think the
4 request for all of that video is proportional to the needs of
5 the case.

6 So what I am going to do is I am going to grant the
7 motion to the extent it seeks a protective order relieving the
8 defendant of its responsibility for preserving the video and
9 other depictions of the ceremonies other than the Nova
10 Southeastern commencement ceremonies. I will also grant the
11 motion to the extent it relieves them of the obligation to
12 preserve the video or photograph footage of the Paul/Mayweather
13 fight.

14 As it stands now -- so the request is essentially
15 limited now to the footage of the Nova Southeastern
16 commencement ceremony, and the defendant would be obligated
17 under the current request to produce that information, that
18 data within 30 days of the lifting of any stay of discovery, if
19 that occurs.

20 I think that is the proper ruling given the scope of
21 the discovery here and the need to assess relevance and
22 proportionality.

23 I will say that given the state of discovery, if the
24 defendant needs to raise a further objection as to the
25 remaining video prior to its production if the stay is lifted,

1 you can raise it at that time; however, you will need to confer
2 with Mr. Zinman specifically as to that objection or any other
3 objections that you may still have as to his request for
4 production.

5 Does that make sense, Mr. Bean?

6 MR. BEAN: Yes, your Honor, and if I may --

7 THE COURT: Sure.

8 MR. BEAN: -- ask one point of clarification.

9 THE COURT: Of course.

10 MR. BEAN: Does the order also relieve South Florida
11 Stadium of the obligation to preserve back office and equipment
12 room footage for the day of the commencement?

13 THE COURT: Honestly, that is a little harder to
14 assess at this point. So understand that that may still impose
15 some burden -- I think the better course right now is to
16 preserve any of the footage from that particular event or for
17 that particular day. Again, if there is a need to address
18 further limitations in the future, we can do it at that point.
19 But I think based on the record that we have now it is more
20 appropriate to simply limit it to the events of other days
21 other than that particular event.

22 MR. BEAN: Thank you, your Honor.

23 One more point of clarification.

24 THE COURT: Sure.

25 MR. BEAN: The order, will it limit the requirement to

1 preserve to one hour before the event and one hour after?

2 THE COURT: Well, let me take a look at what the
3 request is. Well, the request asks for photographs, videotapes
4 or surveillance footage from the commencement ceremonies to be
5 hosted by Hard Rock Stadium.

6 Is there somewhere else in the request where it
7 defines the scope of the ceremonies or otherwise discusses the
8 timing?

9 MR. BEAN: No, I don't believe so, your Honor. So
10 would that then be limited to the actual ceremony itself?

11 THE COURT: I think, as you suggested, I think -- when
12 does the stadium typically open its doors to attendees for such
13 ceremonies?

14 MR. BEAN: Approximately an hour before the event.

15 THE COURT: Then I think it is a reasonable
16 interpretation then that what should be preserved is, as you
17 said, from an hour before the ceremonies began to an hour
18 afterwards and everything in between.

19 Any other clarifications that the defendant needs?

20 MR. BEAN: No. Thank you, your Honor.

21 THE COURT: Are there any other issues that we need to
22 address from any party that is present?

23 Hearing none, then we will enter a written order
24 memorializing my findings here today.

25 I hope everyone has a good afternoon.

1 MR. BEAN: Thank you.

2 MR. BACH-ARMAS: Thank you, Judge.

3 (Adjourned)

4

5 C E R T I F I C A T E

6

7 I hereby certify that the foregoing is an accurate
8 transcription to the best of my ability of the digital audio
9 recording in the above-entitled matter.

10

11 August 20, 2021

12 s/ Joanne Mancari
13 Joanne Mancari, RPR, CRR, CSR
14 Court Reporter
15 jemancari@gmail.com

16

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APPENDIX F

FW: Activity in Case 0:21-cv-60723-RAR Zinman v. Nova Southeastern University et al Order

Cathy O'Donnell <codonnell@panzamaurer.com>

Wed 7/14/2021 9:59 AM

To: Corey Beckman <cb2770@mynsu.nova.edu>

Cc: Richard Beauchamp <rbeauchamp@panzamaurer.com>; Ben Bean <bbean@panzamaurer.com>

NSU Security WARNING: This is an external email. Do not click links or open attachments unless you recognize the sender and know that the content is safe.

Good morning Mr. Zinman,

Please see Court's Paperless Order below advising that the Court intends to proceed with today's hearing in person as set forth in the Court's order setting the hearing [DE 61].

PANZAMAUER

**Cathy O'Donnell
Certified Paralegal**

Panza, Maurer & Maynard P.A.
2400 East Commercial Boulevard
Coastal Towers | Suite 905
Fort Lauderdale, Florida 33308
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From: cmeccfautosender@flsd.uscourts.gov <cmeccfautosender@flsd.uscourts.gov>
Sent: Wednesday, July 14, 2021 9:54 AM
To: flsd_cmecc_notice@flsd.uscourts.gov
Subject: Activity in Case 0:21-cv-60723-RAR Zinman v. Nova Southeastern University et al Order

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U.S. District Court**Southern District of Florida****Notice of Electronic Filing**

The following transaction was entered on 7/14/2021 at 9:53 AM EDT and filed on 7/14/2021

Case Name: Zinman v. Nova Southeastern University et al

Case Number: 0:21-cv-60723-RAR

Filer:

Document Number: 66(No document attached)

Docket Text:

PAPERLESS ORDER. The Court received three voicemails from Plaintiff this morning asking to attend today's hearing remotely. The Court intends to proceed with the hearing in person as set forth in the Court's Order setting the hearing (DE 61). Counsel for South Florida Stadium LLC shall promptly email a copy of this Order to Plaintiff. Signed by Magistrate Judge Jared M. Strauss on 7/14/2021. (emd)

0:21-cv-60723-RAR Notice has been electronically mailed to:

Adam Katzman akatzman@broward.org, jlahti@broward.org, mwburke@broward.org

Benjamin Salzillo bsalzillo@broward.org, jlahti@broward.org, mwburke@broward.org

Benjamin Patrick Bean bbean@panzamaurer.com

Joseph Kirby Jarone jkjarone@broward.org, jlahti@broward.org, mwburke@broward.org

Kristen Monet McIntosh kmmcmintosh@broward.org, jlahti@broward.org, mwburke@broward.org

Lauren Elizabeth Morse laurenm@miamidade.gov, klw@miamidade.gov, olga1@miamidade.gov

Richard Arthur Beauchamp rbeauchamp@panzamaurer.com, bbean@panzamaurer.com, codonnell@panzamaurer.com, dmacdonald@panzamaurer.com, mspatzer@panzamaurer.com

0:21-cv-60723-RAR Notice has not been delivered electronically to those listed below and will be provided by other means. For further assistance, please contact our Help Desk at 1-888-318-2260.:

Corey J Zinman
175 Sedona Way
Palm Beach, FL 33418

APPENDIX G

FW: Activity in Case 0:21-cv-60723-RAR Zinman v. Nova Southeastern University et al Order Setting Hearing on Motion

Cathy O'Donnell <codonnell@panzamaurer.com>

Thu 7/8/2021 11:54 AM

To: Corey Beckman <cb2770@mynsu.nova.edu>

Cc: Richard Beauchamp <rbeauchamp@panzamaurer.com>; Ben Bean <bbean@panzamaurer.com>

NSU Security WARNING: This is an external email. Do not click links or open attachments unless you recognize the sender and know that the content is safe.

Good morning Mr. Zinman,

Please see below paperless Order generated by the Court setting an in person hearing on Defendant's Renewed Motion for Protective Order. As set forth below, this ***in person hearing*** is scheduled for July 14, 2021 at 3:00 p.m. in Fort Lauderdale Division, 299 East Broward Boulevard, Fort Lauderdale, Florida 33301, Courtroom 203D, before Magistrate Judge Jared M. Strauss.

Thank you.

PANZAMAURER

Cathy O'Donnell
Certified Paralegal

Panza, Maurer & Maynard P.A.
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Coastal Towers | Suite 905
Fort Lauderdale, Florida 33306
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From: cmeclfautosender@flsd.uscourts.gov <cmeclfautosender@flsd.uscourts.gov>
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To: flsd_cmeclf_notice@flsd.uscourts.gov
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U.S. District Court

Southern District of Florida

Notice of Electronic Filing

The following transaction was entered on 7/8/2021 at 11:05 AM EDT and filed on 7/8/2021

Case Name: Zinman v. Nova Southeastern University et al

Case Number: 0:21-cv-60723-RAR

Filer:

Document Number: 61 (No document attached)

Docket Text:

PAPERLESS ORDER Setting Hearing (in person) on [60] Renewed MOTION for Protective Order: Motion Hearing set for 7/14/2021 at 3:00 PM in Fort Lauderdale Division, 299 East Broward Boulevard, Fort Lauderdale, FL 33301, Courtroom 203D, before Magistrate Judge Jared M. Strauss.

Any response to the motion shall be filed by 7/13/2021.

Counsel for the movant shall promptly email a copy of this Order to Plaintiff and file a certificate of service. Signed by Magistrate Judge Jared M. Strauss on 7/8/2021. (emd)

0:21-cv-60723-RAR Notice has been electronically mailed to:

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Benjamin Salzillo bsalzillo@broward.org, jlahti@broward.org, mwburke@broward.org

Benjamin Patrick Bean bbean@panzamaurer.com

Joseph Kirby Jarone jkjarone@broward.org, jlahti@broward.org, mwburke@broward.org

Kristen Monet McIntosh kmmcintosh@broward.org, jlahti@broward.org, mwburke@broward.org

Lauren Elizabeth Morse laurenm@miamidade.gov, klw@miamidade.gov, olga1@miamidade.gov

Richard Arthur Beauchamp rbeauchamp@panzamaurer.com, bbean@panzamaurer.com, codonnell@panzamaurer.com, dmacdonald@panzamaurer.com, mspatzer@panzamaurer.com

0:21-cv-60723-RAR Notice has not been delivered electronically to those listed below and will be provided by other means. For further assistance, please contact our Help Desk at 1-888-318-2260.:

Corey J Zinman
175 Sedona Way
Palm Beach, FL 33418

APPENDIX H

Case 0:21-cv-60723-RAR Document 60 Entered on FLSD Docket 07/07/2021 Page 1 of 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-cv-60723-RAR

COREY J. ZINMAN,

Plaintiff,

v.

NOVA SOUTHEASTERN UNIVERSITY,
INC., a Florida not-for-profit corporation,
SOUTH FLORIDA STADIUM LLC, a Florida
limited liability company, BROWARD
COUNTY, a Florida county and political
subdivision of the State of Florida, BERTHA
HENRY, individually and in her official
capacity, MIAMI-DADE COUNTY, a Florida
county and political subdivision of the State of
Florida, PALM BEACH COUNTY, a Florida
County and Political Subdivision of the State of
Florida, CAREY HAUGHWOUT, in her official
capacity as Public Defender of Palm Beach
County,

Defendants.

**DEFENDANT, SOUTH FLORIDA STADIUM LLC'S, RENEWED MOTION FOR
PROTECTIVE ORDER AND INCORPORATED MEMORANDUM OF LAW**

Defendant, South Florida Stadium LLC ("SFS"), by and through the undersigned counsel, hereby files Defendant, South Florida Stadium LLC's, Renewed Motion for Protective Order (the "Renewed Motion"), and in support thereof, states as follows:

INTRODUCTION

The purpose of this Renewed Motion is to clarify the relief sought by SFS relative to Plaintiff's First Request for Production of Documents and Other Things ("First Request for Production"), attached hereto as Exhibit A. Specifically, while SFS is confident that this Court will agree with SFS that Plaintiff's requests for all surveillance footage related to all

CASE NO. 21-cv-60723-RAR

commencement ceremonies hosted at Hard Rock Stadium in May 2021 and the Floyd Mayweather/Logan Paul boxing exhibition on June 6, 2021 are overboard and unduly burdensome, SFS seeks an interim order excusing SFS of any obligation above and beyond its standard document retention policy to *preserve* such materials pending the expiration of the current stay of discovery.

PROCEDURAL HISTORY AND BACKGROUND

1. On June 17, 2021, Plaintiff filed the First Request for Production. *See Exhibit A.*
2. In his First Request for Production, Plaintiff makes the following discovery requests of SFS:
 - i. Copies of any and all photographs, videotapes, or surveillance footage from all commencement ceremonies hosted by Hard Rock Stadium in May of 2021.
 - ii. Copies of any photographs, videotapes, or surveillance footage from the Floyd Mayweather/Logan Paul fight hosted by Hard Rock Stadium on Sunday, June 6, 2021.(together, the “Footage Requests”).
3. On June 24, 2021, SFS and Nova Southeastern University, Inc. (“NSU”) (NSU and SFS, together, the “Commencement Defendants”) filed Defendants, Nova Southeastern University Inc. and South Florida Stadium LLC’s, Motion to Stay Discovery Pending Resolution of Motion to Dismiss [D.E. # 50] (the “Stay Motion”).
4. On June 25, 2021, the Court entered the Order Granting Defendants, Nova Southeastern University Inc. and South Florida Stadium LLC’s, Motion to Stay Discovery Pending Resolution of Motion to Dismiss [D.E. # 52] (the “Stay Order”).
5. The Stay Order stayed discovery pending resolution of the pending Motion to Dismiss and extended the deadline for the Commencement Defendants to respond to Plaintiff’s discovery requests thirty (30) days from the date the Court rules on the pending Motion to Dismiss.

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6. On July 2, 2021, SFS filed Defendant, South Florida Stadium LLC's, Motion for Protective Order ("Motion") [D.E. # 56].

7. On July 2, 2021, this Court entered its paperless order denying the Motion, without prejudice, because discovery has been stayed. [D.E. 57].

8. As set forth above, the purpose of this Renewed Motion is to clarify the relief sought by SFS relative to the First Request for Production. Specifically, while SFS is confident that this Court will agree with SFS that the Footage Requests are overboard and unduly burdensome, SFS seeks an interim order excusing SFS of any obligation above and beyond its standard document retention policy to preserve such materials pending the expiration of the Stay Order.

MEMORANDUM OF LAW

Federal Rule of Civil Procedure 26(b) provides the scope of discovery is:

"Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit."

"Rule 26(b) 'crystallizes the concept of reasonable limits on discovery through increased reliance on the common-sense concept of proportionality.' *In re: Takata Airbag Prod. Liab. Litig.*, No. 14-24009-CV, 2016 WL 1460143, at *2 (S.D. Fla. Mar. 1, 2016) (quoting Chief Justice John Roberts, *2015 Year-End Report on the Federal Judiciary* 6 (2015)).

However, under Rule 37 of the Federal Rules of Civil Procedure as well as the Court's inherent power, parties may be sanctioned for the spoliation of evidence. Rule 37 provides:

If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court .

CASE NO. 21-cv-60723-RAR

[u]pon a finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

- (A) Presume that the lost information was unfavorable to the party;
- (B) Instruct the jury that it may or must presume the information was unfavorable to the party; or
- (C) Dismiss the action or enter default judgment.

"A spoliation claim arises against a defendant when that defendant breaches a duty to preserve evidence." *Nelson v. Amica Mut. Ins. Co.*, No. 6:15-CV-160-ORL-41, 2015 WL 4507609, at *2 (M.D. Fla. July 24, 2015). "A duty may arise to preserve evidence where "a party is on notice that documents or tangible items may be relevant or discoverable in pending or imminent litigation." *Floeter v. City of Orlando*, No. 605CV-400-ORL-22KRS, 2007 WL 486633, at *5 (M.D. Fla. Feb. 9, 2007). Notice of such duty "may come at hands of differing events, but most[] commonly, a party is deemed to have notice of pending litigation if the party has received a discovery request, a complaint has been filed, or any time a party receives notification that litigation is likely to be commenced." *Easterwood v. Carnival Corp.*, No. 19-CV-22932, 2020 WL 6781742, at *5 (S.D. Fla. Nov. 18, 2020) (citations omitted).

SFS is confident that once the stay order is lifted, this Court will agree that the Footage Requests are overboard. However, in the meantime, SFS seeks to obtain an order clarifying that SFS is not obligated to preserve materials pending the expiration of the Stay Order above and beyond its standard document retention policy. SFS would incur significant and unnecessary expenses in retaining the materials requested by Plaintiff. Such request requires the retention of an estimated 85,800 hours of footage from approximately 650 cameras. See Affidavit of Kimberly L. Rometo, attached as **Exhibit B**. Additionally, SFS's current standard footage retention policy only requires SFS to retain such footage for 60 days. See **Exhibit B**. Such footage of patrons at the Stadium is unlikely to reasonably demonstrate actual and intentional discriminatory conduct

CASE NO. 21-cv-60723-RAR

allegedly committed by SFS. The costs imposed on SFS to retain such footage outweighs the limited benefit to Plaintiff as such footage is overwhelmingly unnecessary to Plaintiff's case and extremely duplicative.

Consequently, SFS seeks a protective order requiring SFS to maintain only the relevant surveillance footage of NSU's May 2021 commencement ceremonies.

CERTIFICATION OF GOOD FAITH CONFERENCE

Undersigned counsel certifies that he conferred with Plaintiff by telephone on July 7, 2021, in a good faith effort to resolve the issues raised in the Renewed Motion and that Plaintiff opposes the relief sought herein.

WHEREFORE, Defendant, South Florida Stadium LLC, respectfully requests that this Court enter an order (1) granting this Renewed Motion; (2) limiting the video surveillance footage SFS is required to preserve to NSU's commencement ceremonies; and (3) granting any other relief the Court may consider just and proper under the circumstances.

Respectfully Submitted: July 7, 2021.

PANZA, MAURER & MAYNARD, P.A.
Counsel for Defendant
Coastal Towers – Suite 905
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Tel: (954) 390-0100
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By: /s/ Richard A. Beauchamp
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rbeauchamp@panzamaurer.com
Benjamin P. Bean, Esq.
Florida Bar No.: 72984
bbean@panzamaurer.com

CASE NO. 21-cv-60723-RAR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 7, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the attached Service List via transmission of Notices of Electronic Filing generated by CM/ECF or in some other manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing as indicated by asterisk.

By: */s/ Richard A. Beauchamp*
Richard A. Beauchamp, Esq.

SERVICE LIST

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CASE NO. 21-cv-60723-RAR

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 0:21-cv-60723-RAR

COREY J. ZINMAN,

Plaintiff,

v.

**NOVA SOUTHEASTERN UNIVERSITY, Inc.,
SOUTH FLORIDA STADIUM, LLC, BROWARD COUNTY,
a Florida County and Political Subdivision of the State of Florida,
BERTHA HENRY, individually, MIAMI-DADE COUNTY,
a Florida County and Political Subdivision of the State of Florida,
PALM BEACH COUNTY, a Florida County and Political
Subdivision of the State of Florida, CAREY HAUGHWOUT,
in her official capacity as Public Defender of Palm Beach County,**

Defendants.

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS AND OTHER THINGS**

Plaintiff, COREY J. ZINMAN ("Zinman"), pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby serves his First Request for Production of Documents to Defendants NOVA SOUTHEASTERN UNIVERSITY, Inc. ("NSU"), and SOUTH FLORIDA STADIUM, LLC ("Hard Rock Stadium"). Zinman respectfully requests that Defendant produce the documents and other things requested herein to Zinman at 175 Sedona Way, Palm Beach Gardens, Florida 33418, within 30 days of service of this Request for Production of Documents and Other Things.

DEFINITIONS

Unless otherwise specifically indicated, the following definitions shall apply throughout this Request for Production of Documents and Other Things:

1. The term "document" or "documents" means all paper documents, graphic or auditory records or representations, tangible items, and electronically stored information, and

"A"

shall have the broadest possible meaning accorded to it consistent with Fed. R. Civ. P. 26, and includes, by way of illustration only and not by way of limitation, the following items which are in *your* possession, control, knowledge, or are known to you:

- a. all written, paper or printed material of any kind, including, but not limited to: all transmittal slips, memoranda, notes, schedules, agendas, notices, books, brochures, calendars, employment files, announcements, meeting minutes, records of meetings, records of conversations, newsletters, telegrams, summaries, lists, compilations, facsimile transmissions, transcripts, diaries, appointment books, agreements, contracts, reports, studies, checks, check stubs, invoices, financial statements, bank statements, receipts, *communications*, interoffice and intraoffice exchanges, conversations, inquiries, replies, correspondence, and letters, whether in person, by telephone, in writing, or by means of any other transmittal devices, and all originals, reproductions, copies, changes, amendments, drafts and all non-identical copies of the foregoing;
- b. graphic or auditory records or representations of any kind, including, but not limited to: all images, photographs, charts, drawings, sketches, diagrams, maps, schematics, microfiche, microfilm, slides, videotapes, laser discs, digital versatile discs, Blu-ray discs, UltraViolet discs, cassette tapes, reel to reel tapes, recordings, sound bites, motion pictures, voice messages, and all originals, reproductions, copies, changes, amendments, drafts and all non-identical copies of the foregoing; and
- c. electronically stored information, electronic, mechanical and electrical records or representations of any kind including, but not limited to: all electronic *communications*, text messages, e-mails, instant messages, computer logs, network logs, Internet history, document files, spreadsheet files, presentation files, database files, desktop publishing files, source code files, object code files, executable files, data files, script files, project management files, text files, portable document format files, tabulated data files, virtual machine files, XML files, webpage files, image files, design files, GIS files, system files, compressed files, disk image files, audio files, video files, backup files, metadata and all originals, reproductions, copies, changes, amendments, drafts, and all non-identical copies of the foregoing (defined herein as "*ESI*"; each individual electronically stored *document* is defined herein as an "*ESI document*");

2. For purposes of the foregoing, *documents* may be located, stored or archived in any physical location or on any electronic storage media, including, without limitation, any computer, server, appliance, cloud-based service, web-based service, database, internal hard drive, external hard drive, solid-state drive, hard or floppy diskette, compact disc, digital versatile disc, Blue-ray disc, UltraViolet disc, flash memory, flash card, thumb drive, cartridge, magnetic tape, mobile phone, tablet device, or personal digital assistant. Moreover, for purposes

of the foregoing, the term "draft" means any earlier, preliminary, preparatory, or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the draft's terms are the same as or different from the final *document's* terms.

Please note that "Document" and "Documents" as defined herein specifically include "Communication" and "Communications" as defined below.

3. The term "communications" means any oral or written utterance, statement, notation, or conversation, of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussion, interviews, meetings, consultations, agreements, emails, text messages and voice or audio messages.

4. The terms "you," "your," and "yours" refers to the person or entity to whom this request is directed and to any agent, attorney, predecessor or successor in interest to the person or entity.

5. The phrases "relates to" and "relating to" mean in any way, directly or indirectly, pertaining, concerning, considering, mentioning, analyzing, supporting, constituting, comprising, containing, setting forth, showing, evidencing, disclosing, describing, explaining, summarizing, embodying, referencing, qualifying, corroborating, demonstrating, proving, showing, refuting, disputing, rebutting, or contradicting, regardless of whether the document or information supports or contradicts your claims or position.

6. The conjunctions "and" and "or" shall each be individually interpreted in every instance to mean "and/or" and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any request.

7. As used herein, the singular and masculine form of a noun or pronoun shall embrace, and be read and applied as, the plural or feminine or neuter, as the circumstances may make appropriate.

8. All words in the present tense include the past and all words in the past tense include the present.

INSTRUCTIONS

1. In response to this Request for Production, you are required to furnish all information and documents which are, or have been, in your possession, custody, or control, or in the possession, custody, or control of your past or present agents, attorneys, accountants, advisors, employees, independent contractors, companies or any other person or entity acting on your behalf.

2. To the extent that you consider any of the following requests objectionable, answer or respond to so much of each request and each part thereof as is not objectionable in your view, and separately state that part of each request to which you raise objection and each ground for each such objection.

3. If any document is withheld under a claim of privilege or immunity, in order that the Court and the parties may determine the validity of the claim of privilege or immunity, you must provide sufficient information to determine the identity of the document as well as the basis for any asserted claim of privilege or immunity. Documents shall be deemed adequately described for this purpose if you have supplied the following information: (1) a description of the nature of the document (e.g., letter or memorandum); (2) the date of the document; (3) the identity of the person(s) who sent and received the original and any copy(ies) of the document as well as his or her respective capacity; (4) the identity of the custodian of the document, and such other information sufficient to identify the document for a subpoena duces tecum or a document

request, including where appropriate the author, the addressee, and if not apparent, the relationship between the author and addressee; (5) a description of the subject matter of the document; (6) a description of the basis upon which you contend you are entitled to withhold the document from production; and (7) the identity of all persons who have seen the document.

4. If any document or portion thereof has been destroyed, redacted in whole or in part, purged, or is no longer in your possession, custody or control, state: (1) the date of the occurrence and reason why it was destroyed, redacted, purged, or no longer in your possession, custody or control; (2) the person who destroyed, redacted, purged or caused the document to no longer be in your possession, custody or control; and (3) if the document was completely destroyed, the file where the document was maintained before its destruction.

ESI Instructions:

5. ESI Production Format. ESI shall be produced electronically, either in (1) Native Format, or (2) as single-page, uniquely and sequentially numbered Group IV TIFF image files. For each ESI document, all metadata must remain intact and all parent/child document relationships must be maintained. All ESI shall be collected using methods that prevent the spoliation of data.

6. Production Media. The production of ESI as described herein shall be made on an external hard drive, flash drive, CD or DVD ("Production Media"). The Production Media shall include a unique identifying label specifying: (a) your identity; (b) the date of the production of ESI; and (c) the case name and number.

7. ESI of Limited Accessibility. If you contend that any ESI document responsive to this Request for Production is not reasonably accessible: (1) timely identify such ESI document with reasonable particularity; and (2) provide the basis for declining to produce the ESI

document, including, for example, any limitations on access, the likely costs that might be incurred in accessing and producing the ESI document, the method used for storage of the ESI document and all locations in which the ESI document is kept.

8. TIFF Production. ESI produced as TIFF image files shall be produced as follows:

(1) each production of TIFF image files shall be accompanied by a corresponding load file ("Image Load File"); (2) each TIFF image file must contain the same information and same physical representation as the Native Format file from which the TIFF image file was created; (3) each TIFF image file must not be less than 300 dpi resolution; (4) each TIFF image file shall be accompanied by an extracted text file containing the extracted text of the Native Format file from which the TIFF image file was created; (5) each extracted text file shall be named to match the endorsed number assigned to the first page of each corresponding TIFF image file; (6) the extracted text files shall be accompanied by a Control List File ("LST"); (7) each production of TIFF image files shall be accompanied by an image cross-reference load file, such as Opticon ("OPT"), which shall provide the beginning and ending endorsed number of each TIFF image file and the number of pages it includes; and (8) each production of TIFF image files must be accompanied by a data load file ("Data Load File" or "DAT") that contains both the hash value and all available metadata of the Native Format files from which the TIFF image files were created. Further, the following instructions apply to the production of TIFF image files:

- a. Processing Specifications. For each Native Format file that is converted to TIFF format: (1) all tracked changes shall be maintained so that all changes are visible; (2) OLE Embedded files shall not be extracted as separate documents; (3) author comments shall remain or be made visible; (4) hidden columns, cells, rows, worksheets and other hidden data shall remain or be made visible; (5) presenter notes shall remain or be made visible; and (6) to the extent ESI in a foreign language is produced, processing of such ESI shall be unicode-compliant.
- b. Document Unitization. If a Native Format file that is converted to TIFF format is more than one page, the unitization of the file and any

attachments or affixed notes must be maintained as it existed when collected. If unitization cannot be maintained, the original unitization must be documented in the Data Load File or otherwise electronically tracked.

- c. Color. If a Native Format file that is converted to TIFF format contains color, the TIFF image file need not be produced in color. However, we reserve the right to make a request for a file to be produced in color.
- d. Where TIFF Image File Format is Impracticable. In the event that production of a Native Format file as a TIFF image would be impracticable, you shall produce such file in Native Format with all metadata intact. You shall provide a single page TIFF image placeholder referencing the title of the Native Format file not being produced as a TIFF image.
- e. Spreadsheets. All Microsoft Excel files, similar non-Microsoft spreadsheet files, and graphical compilations of spreadsheet data, shall be produced in Native Format with all cells, columns, rows and worksheets and other information unhidden and expanded.

DOCUMENTS REQUESTED

1. All tax records (including returns, filings, and all attachments) for the years 2017, 2018, 2019, 2020, and 2021.
2. Any and all documents you provided to your tax preparer for the years 2017, 2018, 2019, 2020, and 2021.
3. Any and all documents including but not limited to memoranda, notes, reports, correspondence, and letters regarding Plaintiff.
4. Any and all documents including but not limited to memoranda, notes, reports, correspondence, and letters regarding requests for accommodations related to COVID-19 and/or mask mandates.
5. Copies of any and all photographs, videotapes or surveillance footage from all commencement ceremonies hosted by Hard Rock Stadium in May of 2021.
6. Copies of any photographs, videotapes or surveillance footage from the commencement ceremonies hosted by Hard Rock Stadium in May of 2021.

7. Copies of and all documents including but not limited to memoranda, notes, reports, correspondence, and letters regarding members refusing to wear masks.
8. Copies of any photographs, videotapes or surveillance footage from the Floyd Mayweather/Logan Paul fight hosted by Hard Rock Stadium on Sunday, June 6, 2021.

Respectfully submitted,

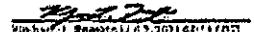


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Pro Se Plaintiff

SWORN DECLARATION OF KIMBERLY L. ROMETO

1. I, Kimberly L. Rometo, have personal knowledge of the facts set forth herein. I am over eighteen years of age, and I am *sui juris*.
2. I am employed with South Florida Stadium, Inc. ("SFS") as Vice President, Chief Information Officer and have held this position since December 2018. As the Vice President, Chief Information Officer, I have the primary responsibility for management of video and surveillance footage at Hard Rock Stadium in Miami Gardens, Florida.
3. There are approximately 650 surveillance cameras located at the Hard Rock Stadium.
4. There is likely an estimated 85,500 hours of surveillance footage recorded on such cameras from all commencement ceremonies hosted by the Hardrock Stadium in May of 2021 and from the Floyd Mayweather/Logan Paul fight hosted by the Hardrock Stadium on June 6, 2021.
5. SFS' current standard footage retention policy only requires SFS to retain such footage for 60 days.
6. It would take over 80 hours with the assistance of outside technical expertise to comply with Plaintiff's request in retaining, preparing, and producing all surveillance footage for all commencement ceremonies hosted by Hard Rock Stadium in May of 2021, as well as all surveillance footage from the Floyd Mayweather/Logan Paul boxing fight on June 6, 2021. Such a task would cause SFS to incur fees well over \$20,000.

Under penalties of perjury, I declare that I have read the foregoing declaration and that the facts stated in it are true, to the best of my knowledge and belief.


Kimberly L. Rometo 07/07/2021 09:21 AM (ET)

Kimberly L. Rometo