

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ APR 12 2022 ★

BROOKLYN OFFICE

SARAH EDMONDSON, et al.,

Plaintiffs,

v.

KEITH RANIERE, et al.,

Defendants.

1:20-cv-00485-EK-CLP

DEFENDANT BRANDON PORTER'S
MEMORANDUM OF LAW IN SUPPORT OF HIS
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT

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PRELIMINARY STATEMENT

The First Amended Complaint (FAC), presented by the Plaintiffs is a sprawling text that contains few specifics. The Plaintiffs were presented the opportunity to adjust their FAC based upon comments from the Defendants, but the Plaintiffs decided to let it stand on its own. This FAC fails to meet the requirements of Rules 8, 9(b), and 12(b)(6) of the Federal Rules of Civil Procedure and should be dismissed in entirety.

The FAC is exceedingly long and filled with superfluous and inflammatory statements. The document is not specific and makes sweeping claims including all “Plaintiffs” and/or all “Defendants” without describing who did what to whom, violating Rule 8 of the Federal Rules of Civil Procedure.

The FAC does not provide specific dates for the claims making it impossible to determine if the claims are barred by statutes of limitations. The FAC fails to meet the requirements for RICO claims for all Defendants. Each RICO claim requires a description of a pattern of at least two predicate acts for each defendant. However, there is not a single predicate act directly attributed to Defendant Brandon Porter (“Porter”). As such, the RICO claims fail Rules 8, 9(b), and 12(b)(6) and should be dismissed.

BACKGROUND

The FACS allege that Defendant Porter is a physician who was formerly licensed to practice medicine in New York. It claims that Defendant Porter was paid by and acted as an agent of the Ethical Science Foundation, (“ESF”) and was under the direction of Raniere, Clare

Bronfman, and Nancy Salzman. It claims that Porter, along with Nancy Salzman and others, conducted experiments on human beings within the NXIVM community, including a “Human Fright Experiment,” Tourette Syndrome studies, and OCD studies. FACS ¶ 67. These projects were performed without proper oversight or informed consent. FACS ¶ 72. The New York Department of Health, State Board for Professional Medical Conduct determined that Defendant Porter performed human subject research between 2012 – August 2017 without appropriate oversight and revoked his license to practice in the State of New York. FACS ¶¶ 711–713.

Defendant Porter is part of four counts that are against “All Defendants”: Counts I, II, III, IV. FACS ¶¶ 859-932.

Defendant Porter is specifically named as a defendant in Count VIII, Negligence Per Se – Unauthorized Human Research, with claims by five Plaintiffs. Of these five Plaintiffs, one is named by first name, only, and the other Plaintiffs are Jane Does. Porter is also specifically named as a defendant in Count X, Gross Negligence and Recklessness with 3 Jane Doe Plaintiffs making claims. These Jane Does participated in OCD and Tourette Syndrome studies. FACS ¶¶ 948-971.

ARGUMENT

I. THE FAC FAILS TO COMPLY WITH THE REQUIREMENTS OF RULE 8

The First Amended Complaint (“FAC”) is not a “short and plain statement” as required by Federal Rule of Civil Procedure Rule 8. It is 217 pages, includes highly repetitive phrasing with small changes here and there, and presents a litany of defamatory content.

Throughout the FAC, the Plaintiffs use of the words “Defendants” and “Plaintiffs” in broad sweeps that are unlikely to represent all Defendants and all Plaintiffs. For instance, the Plaintiffs claim that all Plaintiffs suffered from Forced Labor (Count I (B)), Human Trafficking (Count III (C)), and Peonage (Count III (D)). FAC ¶¶ 878-879. These claims are unlikely because at least 10 Jane and John Does make no allegations other than boilerplate allegations related to NXIVM enrollment. Given these inconsistencies, it is unlikely that labels that include “all Defendants,” actually include all Defendants. Rule 8 requires a “plain statement” and the FAC should be dismissed for these failures to be clear and consistent within its claims.

RICO enumerates an exclusive list of predicate acts of racketeering. See 18 U.S.C. § 1961(1). A complaint alleging RICO must “specify, for each RICO defendant, the commission of two predicate acts.” *Franzone*, 2015 WL 2139121, at *8. “[T]o comply with Rule 8, a complaint should offer specification as to the particular activities by any particular defendant” constituting a RICO predicate act. *Harris v. NYU Langone Med. Ctr.*, 2013 WL 3487032, at *7 (S.D.N.Y. July 9, 2013)

The FACS makes general claims of possible acts against the Plaintiffs but had no direct claim of which predicate act Defendant Porter performed. FAC ¶¶ 868 (i)-(ix). This violates Rule 8 and forces dismissal of RICO charges, Counts 1, 2, and 3. FAC ¶¶ 859-911.

II. THE FAC MUST BE DISMISSED UNDER RULE 12(B)(6)

1) THE FAC DOES NOT PROVIDE DATES FOR THE CLAIMS. MANY CLAIMS ARE LIKELY BARRED BY STATUTES OF LIMITATIONS

The FAC presents no dates or years for the claims making it impossible to know if the claims are beyond the statute of limitations. Given the complaint mentions acts starting in at least 2003, it is likely that many of the claims are beyond the statute of limitations. FAC ¶ 84. In point of fact, the FAC doesn't establish the dates that Plaintiff's claims occurred in Count IV, Count VIII, and Count X. FAC ¶¶ 912-932, FAC ¶¶ 948-955, FAC ¶¶ 965-971. Dates can be posited from a citation from the New York Office of Professional Misconduct ("NY OPMC") Board findings for Defendant Porter's hearings. The board concluded that Porter performed Human Research projects between 2010 – August 2017. FAC ¶ 711. New York law establishes a 30-month statute of limitations period for these claims. N.Y.C.P.L.R § 214-a. The Plaintiffs' initial complaint was filed on 1/28/2020, barring all claims from prior to July 28, 2017. The FAC's lack of dates violates Fed. R. Civ. P. 12(B)(6) and the complaints should be dismissed in entirety for these failures.

2) CLAIMS AGAINST DEFENDANT PORTER FAIL TO MEET REQUIREMENTS FOR COUNTS I and II RICO CHARGES AND SHOULD BE DISMISSED

Plaintiffs' RICO conspiracy claim against Defendant Porter also fails because the FAC does not factually allege that he conspired with other defendants to perform predicate acts of racketeering. As a consequence Counts I and II should be dismissed for Porter.

3) CLAIMS AGAINST DEFENDANT PORTER FAIL TO MEET
REQUIREMENTS FOR COUNT III, RICO CONSPIRACY AND
SHOULD BE DISMISSED

a) SEX TRAFICKING CLAIM

The FAC contains no facts suggesting that Defendant Porter knowingly recruited or caused any person to engage in a commercial (or any other) sex act.

The FAC does not allege facts suggesting that Defendant Porter knowingly benefited in any way from any alleged participation in an alleged sex trafficking venture.

The FAC fails to factually allege that Defendant Porter “participated” in any sex trafficking venture. Participation requires “assisting, supporting, or facilitating” sex trafficking. 18 § U.S.C. 1591(e)(4). The sex-trafficking claims should be dismissed against Defendant Porter because the FAC fails to plead each the elements of that claim.

b) FORCED LABOR CLAIM

To state a forced labor a plaintiff must allege that the defendant knowingly obtained the labor or services of a person: (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (2) by means of serious harm or threats of serious harm to that person or another person; (3) by means of abuse or threatened abuse of law or legal process; or (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint. 18 U.S.C. § 1589(a). The FAC contains no allegations that Defendant Porter knowingly obtained the labor or services of any person at any

time or by any means, let alone by means of force or by threats of force, physical restraint, or any other harm. The Forced Labor claim against Defendant Porter should be dismissed.

c) HUMAN TRAFFICKING CLAIM

The FAC states a claim for human trafficking against all defendants under 18 U.S.C. § 1590 on behalf of “all plaintiffs.” FAC ¶¶ 894-900. To state a cause of action for human trafficking, a plaintiff must factually allege that the defendant knowingly recruited, harbored, transported, provided, or obtained by any means, any person for labor or services in violation of the TVPRA. The FAC fails to satisfy these requirements for Defendant Porter. The Human Trafficking Claim should be dismissed.

III. RICO CLAIMS OF FRAUD IN COUNTS I AND II, MUST BE DISMISSED UNDER RULE 9(B)

Pleading fraud has a heightened pleading standard, “in alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.” (Rule 9 (B)) Plaintiffs failed to describe any particulars relating to Defendant Porter, so all fraud counts should be dismissed for Porter.

IV. PHYSICIANS AND NURSES ARE EXEMPT FROM NY EDUCATION LAW BARRING NON-PSYCHOLOGISTS FROM ENGAGING IN PRACTICES OF PSYCHOLOGY, ETC.

“The New York State law imposes on all persons a legal duty to obtain a license from the State before engaging in the practices of psychology, psychoanalysis and mental health counseling or to be otherwise authorized by the State to engage in such practices.” FAC ¶ 912. NY Education Law § 7601. All plaintiffs charge all defendants with Negligence Per Se because they broke this regulation. However, exemptions from this regulation include licensed physicians and licensed nurses. NY Education Law § 7605(3) and NY Education Law §7605(5), Defendant Porter was licensed to practice medicine in NY “at all times relevant hereto,” and was exempt from this requirement. FAC ¶ 67. Count IV should be dismissed for Defendant Porter

CONCLUSION

For the foregoing reasons, Defendant Brandon Porter requests that the Court dismiss the entire complaint with prejudice, pursuant to Rules 8, 12(b)(6), and 9(b) of the Federal Rules of Civil Procedure.

Defendant Porter joins in and incorporates the arguments for dismissal made by the other defendants.

Dated:

January 29, 2022

Respectfully submitted,

/s/ Brandon B. Porter

Brandon B. Porter
PO BOX 1102
500 W. HICKMAN RD
WUKEE, IA 50263
Tel: (515) 978-1242

Exhibit A -
List of Plaintiffs and their
ESP center affiliation

Plaintiff name	Executive Success Programs Center Affiliation(s)	Count Vancouver or Los Angeles
Adrian	Albany	
Adrienne Stiles	Albany	
Alejandro Balassa	Mexico City	
Allison Rood	Los Angeles	1
Andrea Hammond	New York City	
Anthony Ames	Vancouver	2
Anthony Madani	Vancouver	3
Ariella Menashy	Vancouver	4
Ashley Harvey	Vancouver	5
Ashley McLean	Vancouver	6
Bonnie Piesse	Los Angeles	7
Brieanna Fiander	Vancouver	8
Camila	Albany	
Caryssa Cottrell	Albany	
Chad Williams	Vancouver	9
Charlotte	Vancouver	10
Christopher Black	Vancouver	11
Daniela	Albany	
Deanne Brunelle	Vancouver	12
Elham Menhaji	New York City	
Gabrielle Gendron	Vancouver	13
Hannah Vanderheyden	Vancouver	14
India Oxenberg	Los Angeles/Albany	15
Isabella Constantino	Albany	
Jane Doe 8	Vancouver	16
Jane Doe 9	Vancouver	17
Jeffrey Golfman	Vancouver	18
Jennifer Kobelt	Vancouver	19
Jessica Joan Salazar	Los Angeles	20
Juliana Vicente	Los Angeles/Albany	21
Katie Shaw	Los Angeles	22
Karla Diaz Cano	New York City	
Kayla Grosse	Los Angeles/Albany	23
Ken Kozak	Albany	
Kristin	San Francisco	
Lindsay MacInnis	Vancouver	24
Madeline Carrier	Vancouver	25
Maja Miljkovic	Vancouver	26

Margot Leviton	Vancouver	27
Mark Vicente	Los Angeles/Vancouver	28
Michelle Neal	Vancouver	29
Nicole	Los Angeles/New York	30
Nils MacQuarrie	Albany	
Owen Giroux	Vancouver	31
Paloma Pena	Monterrey, Mexico	
Pamela Cooley	Vancouver	32
Philip Akka	New York City	
Polly Green	Vancouver	33
Rachel	Los Angeles	34
Rees Alan Haynes	Vancouver	35
Robert Gray	Vancouver	36
Rod Christiansen	Vancouver	37
Rosalyn Cua	Vancouver	38
Sara Lim	Vancouver	39
Sarah Edmondson	Vancouver/Los Angeles	40
Sarah Wall	Vancouver	41
Scott Starr	Albany	
Shayna Holmes	Vancouver	42
Soukiana Mehdaoui	Albany	
Stephanie Fair-Layman	Los Angeles/New York	43
Susan Patricia Vieta	Vancouver	44
Susan Pratt	Vancouver	45
Susan Wysocki	Albany	
Tabitha Chapman	Albany	
Tanya Hubbard	Vancouver	46
Toni Natalie	Albany	
Valerie	Los Angeles	47
Veronica Jaspeado	Mexico City	
Warne Livesey	Vancouver	48
Yan Huang	Vancouver	49

Exhibit B: Timing of Child Exploitation and Pornography Charges in relationship to Defendants pleas. The Defense was not given sufficient time to investigate the verity of the child pornography charges

March 25, 2019: Keith Raniere unlawfully kidnapped in Mexico and brought to US and arrested.

April 17, 2018: Keith Raniere indicted, no charges of child pornography or child exploitation. Raniere Dkt. 14.

April 20, 2018: Allison Mack arraigned. Raniere Dkt. 18.

May 4, 2018: Judge Garaufis denied Raniere's request for a speedy trial, set trial date for October 1, 2018. Raniere Dkt. 34.

July 23, 2018: Prosecution files a superseding indictment, adding four co-defendants, Clare Bronfman, Kathy Russell, Lauren Salzman and Nancy Salzman. No charges of child pornography or child exploitation. Raniere Dkt. 50.

July 26, 2018: Judge Garaufis moves the trial date to January 7, 2019. Raniere Dkt. Status Conference.

By December 6, 2018: Judge Garaufis responded to the prosecution's request for extension of the trial date by moving the trial date to March 18, 2019. Raniere Dkt. Status Conference.

January 9, 2019: Lauren Salzman moves to sever and is concerned about the prejudice created by the sex trafficking charges that were primarily against Allison Mack and Keith Raniere Raniere Dkt. 268.

January 9, 2019: Clare Bronfman, Kathy Russell, and Nancy Salzman move to sever because they are concerned about the prejudicial nature of the sex trafficking charges that do not relate to the charges against them. Raniere Dkt. 418.

January 11, 2019: The prosecution moves to adjourn (Raniere Dkt. 279) and Judge Garaufis moves the trial date to April 29, 2019.

February 21, 2019: FBI Special Agent Lever allegedly finds nude images of 15 year-old Camila on the hard drive that case agents seized in Raniere's library on March 26, 2018. Raniere Dkt. 594-2. (This document is under seal, I was told that this search warrant reveals the given date)

March 13, 2019: Prosecutors file a second superseding indictment, adding the charges of child exploitation (creating child pornography) and possessing child pornography. Raniere Dkt. 430.

March 13, 2019: Nancy Salzman enters a guilty plea. Raniere Dkt. 474.

March 18, 21 and 22, 2019: co-defendants Bronfman, Mack, and Russell file motions to sever the case from Raniere, claiming the new charges would make it impossible for them to have a fair trial, because child exploitation is considered one of the most heinous crimes in America. Raniere Dkt. 437, Dkt. 454, Dkt. 461, Dkt. 463.

Judge Garaufis does not sever any of the defendants. With the exception of Keith Raniere, all co-defendants offer pleas.

March 25, 2019: Lauren Salzman entered into a plea deal with prosecutors with the agreement to testify for the prosecution. Raniere Dkt. 473.

April 8, 2019: Allison Mack enters into a plea agreement. Raniere Dkt. 1084.

April 19, 2019: Kathy Russell enters into a plea agreement. Raniere Dkt. 1151.

April 19, 2019: Clare Bronfman enters into a plea agreement. Raniere Dkt. 944.

The Defense was not given sufficient time to investigate the verity of the child pornography charges

March 18, 2019 – Raniere moves to sever the child pornography charges so they have time for a forensic evaluation of the device. Raniere Dkt. 437. This motion is denied by Judge Garaufis and moves the trial date to May 7, 2019.

April 22, 2019 – With less than 2 weeks until trial, Raniere's attorneys complain that they did not, yet, receive forensic reports from the FBI on the alleged child pornography. They asked the prosecution for this necessary information repeatedly. Raniere Dkt. 577.

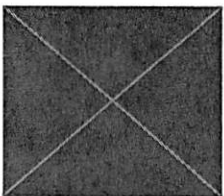
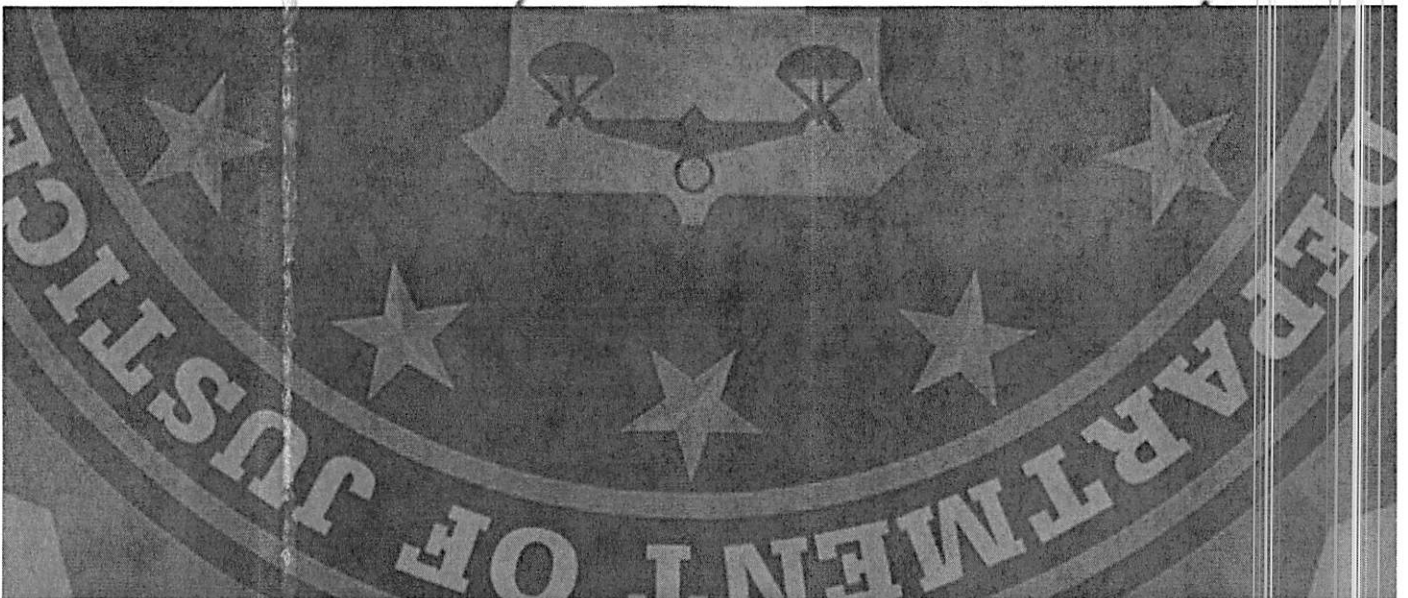
May 7, 2019 – The trial begins.

Exhibit C -
Suneel Chakravorty Online Publication
March 4, 2022

Suneel Issues Over-the-Top Accusations at FBI, DOJ, and Everyone Else



J'Accuse...!



Suneel



Chakravorty

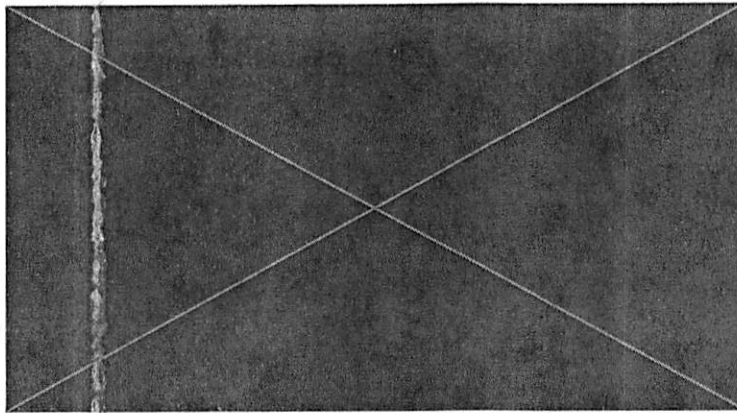


12:21 am



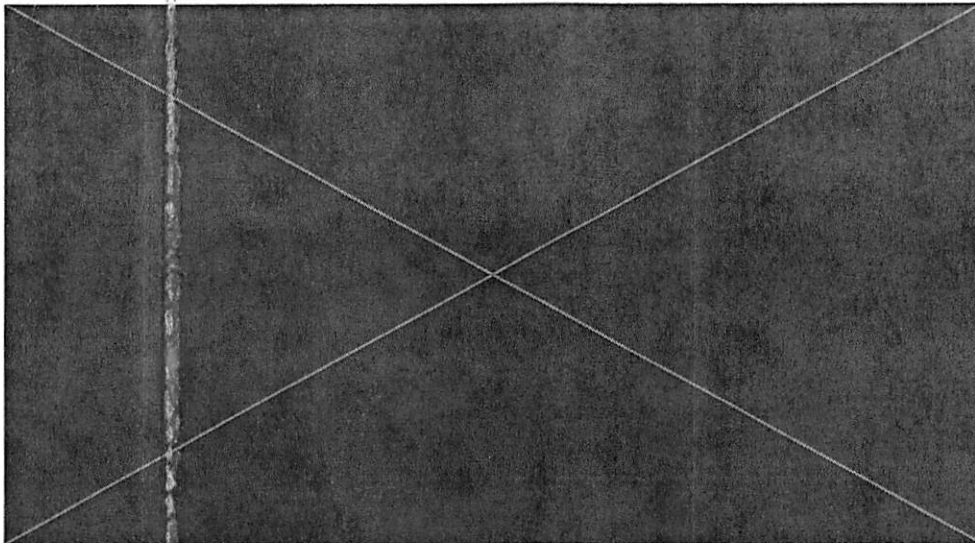
129

Comments



By Suneel Chakravorty

Frank, in your recent post, once again it's ad hominem ad infinitum.

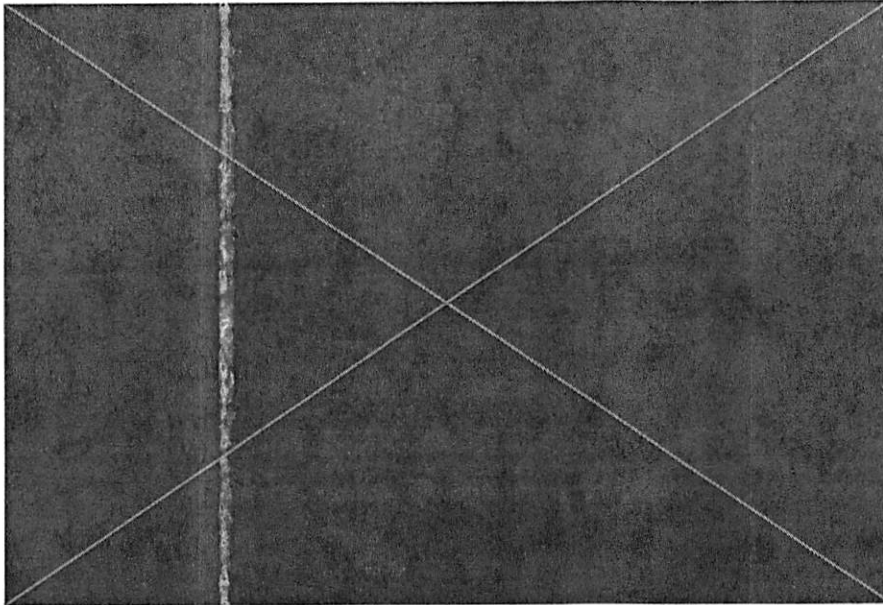


*Frank Parlato, as he looks into the distance
and comes up with ad hominem attacks to
delight his readership and distract from the
real truths I am bringing out.*

Sure, there are things I don't know about Keith Raniere, and things you don't know.

I am not sure that the photographs of Lauren Salzman and Daniela [may her name forever be hidden.] purportedly from 2005 were taken as blackmail or if they were taken for prurient reasons, or other reasons altogether.

Maybe for studies that Raniere had in mind – and as the folder suggests – if it was indeed a folder created by him.



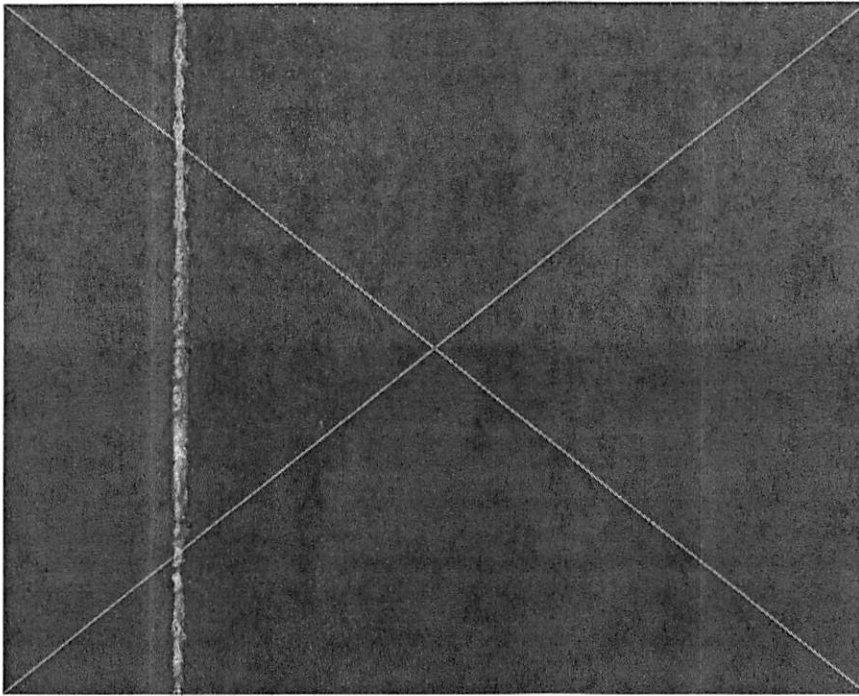
Lauren Salzman testified to having nude photographs taken of her by Raniere in her twenties, but the government scrupulously avoided showing them to her for positive identification.

If they were taken for blackmail, I would condemn that. If they were taken for prurient reasons, it's not my business as long as the subjects are consenting adults. I doubt it was blackmail for when even women like Barbara Bouchey left, he never released any photos of them.

Of course, it is problematic if he took photos of an underage female, one whom by law cannot legally consented to having photos taken.

It may be true. He may have taken photos of Cami when she was underage, and it may not be true.

If it's true, I condemn it.



However, what I am concerned in this debate with you is not whether he took pictures of Cami when she was 15, but whether or not agents of the FBI and other officials in the government, such as federal prosecutors, proved he took contraband photos with true, unaltered photographs, or whether they planted, falsified, and tampered with the evidence as a last-ditch effort to ensure a conviction in a case that otherwise could have been well-argued, was comprised of victims who were really all consenting adults, however misguided or well-guided – or even women who changed their minds and sought to blame it on him.

I agree with you, Frank, that what I have presented so far is entirely circumstantial evidence or coincidences.

Here are a few more circumstances for you to consider.

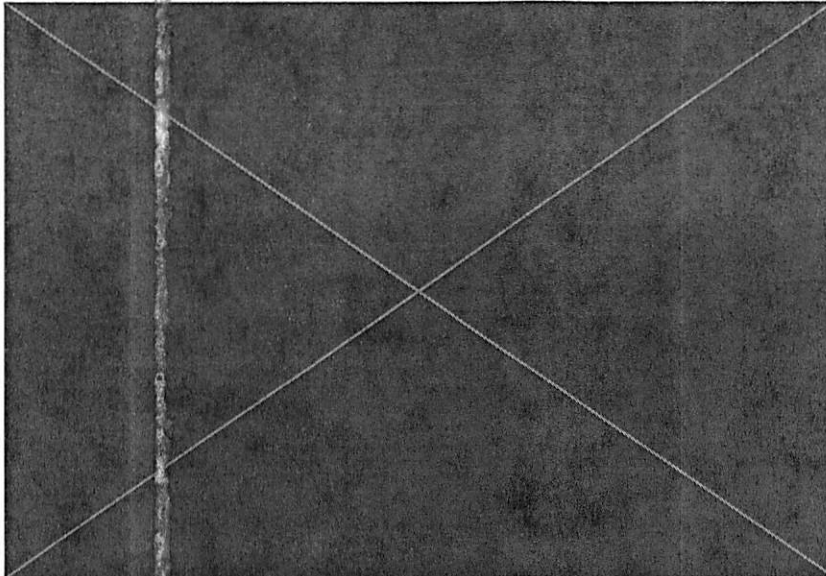
Booth thinks unsealed evidence

is okay



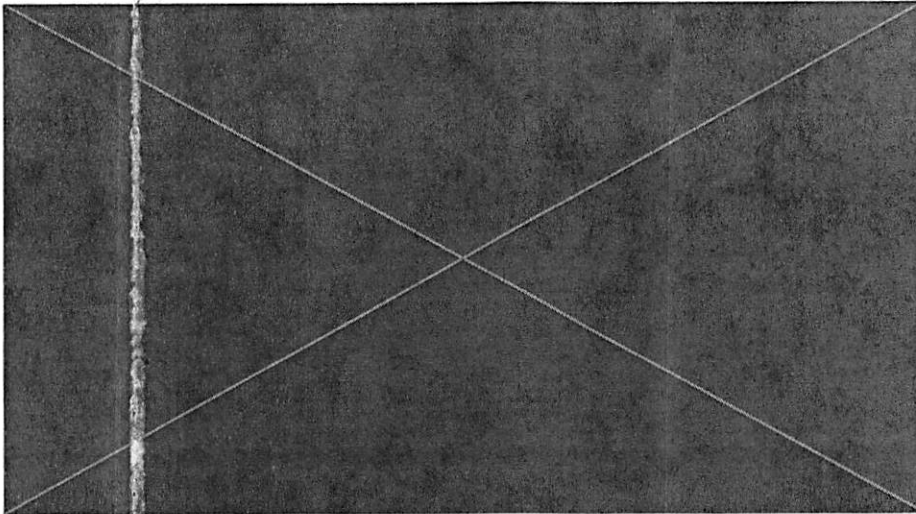
Lexar camera card similar to the one seized at the executive library of Keith Raniere.

FBI Examiner Brian Booth testified that the camera card, which was essential for linking the photographs to Raniere as the producer of them, was delivered to him by FBI Special Agent Michael Lever just 2 days before he took the stand and five weeks into the case.



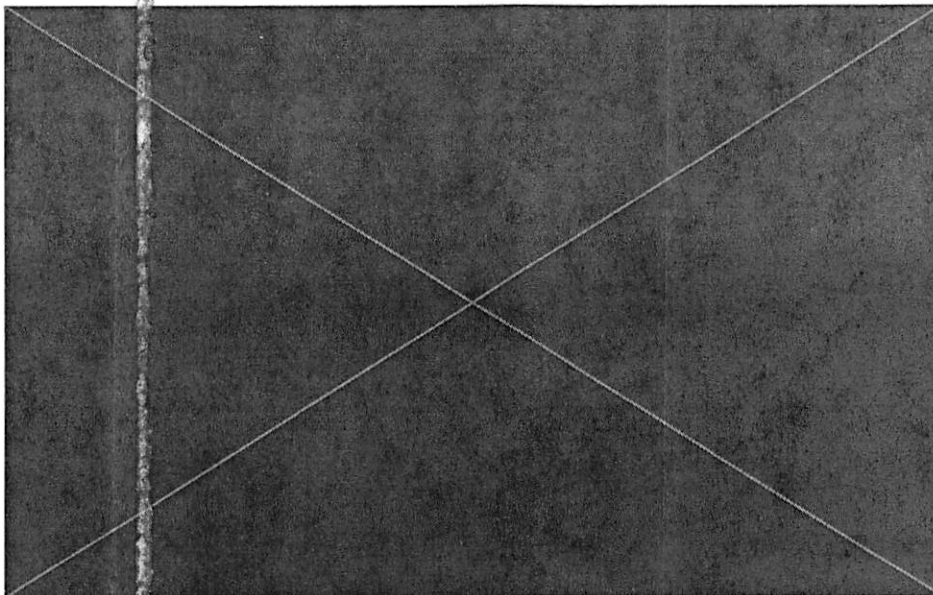
FBI Senior Forensic Examiner Brian Booth said EXIF data is hard to change, and it is very easy to change. Even

Frank Parlato can do it.



Special Agent Lever at the FBI raid of Nancy Salzman's home (photo credit: Albany Times Union)

If I were a prosecutor and I knew that my lead expert got one of the two critical pieces of evidence just days before trial, I would find that suspicious. Even more so because it arrived in an unsealed, cellophane bag.



They handled the evidence pretty

slippily at the FBI offices. Why it almost seems they kept evidence in their back pocket until they needed it.

Here is an amazing bit of Paul DerOhanessian's cross-examination of Brian Booth:

Q And with respect to Government Exhibit 524, the LEXAR card, was that submitted to you in a bag of some sort?

A Yeah, it was a cellophane bag.

Q Was it a sealed cellophane bag?

A No, it was not.

It was not sealed?

What I have heard from an FBI expert is that unsealed evidence is a serious lapse in protocol, that it is paramount to seal and protect evidence, and that all employees of the Computer Analysis Response Team (CART), where Booth worked for over a decade, know that all evidence must be sealed, and whenever opened, evidence needs to be resealed afterwards with initials, to document the chain of custody.

From what I have been told, Booth's statement is a revelation. Even minor evidence has to be sealed, let alone one of the most important pieces of evidence in the case.

Don't believe me? Here is policy from the FBI manual, from the Office of the Inspector General (OIG):

"All FBI personnel, including agents, who handle digital evidence during the course of their duties must ensure that all digital evidence is handled, marked, and has a content review in accordance with relevant policies. Digital evidence 'must be stored and secured and/or sealed to prevent data or evidentiary loss, cross-transfer contamination, or other deleterious change.' Only certified digital evidence personnel, such as Computer Analysis Response Team members, may image digital evidence."



The Office of the Inspector General is supposed to be a watchdog for the DOJ.

But Booth got the camera card after the trial started and in an unsealed baggie. That might be good to bring in your peanut butter sandwich for lunch, but to hand over critical evidence late and unsealed is suspicious.

Let's not forget that this camera card was what FBI SA Lever and his case agents held onto for 11 months. It should have been turned into evidence within 10 days.

Why is it supposed to be turned in within 10 days?

Because agents can't do much with this evidence. It needs to be preserved and analyzed without being destroyed or altered. That's why you give it to the lab, because it's vital evidence that shouldn't be corrupted.

A conviction might rest on the sanctity of that evidence.

Here's the policy from the same OIG report:

"According to the FBI's Field Evidence Management Policy Guide, evidence must be documented into the FBI Central Recordkeeping System no later than 10 calendar days after receipt. Similarly, the Digital Evidence Policy Guide states that, 'Undocumented, "off the record" searches or reviews of [digital evidence] are not permitted."

In the Raniere case, we have critical evidence, the camera card, without any chain of custody being presented, and arriving in an unsealed bag. I think the defense should have objected, but this should have been suspicious to the prosecution as well.

How did Booth handle the fact that this critical evidence came in unsealed, and with a broken chain of custody, and with a clearly broken chain of custody?

No biggie. Just another day at sloppy central.

The camera card was accessed and altered, by Booth's own admission, by some unknown person, on September 19, 2018.

Here's what Booth said, in his cross-examination by DerOhanessian:

Q And do you usually receive electronic evidence in unsealed boxes or bags?

A Not always. Sometimes the case agents would have needed to look at the item beforehand, and they might have unsealed it. So it doesn't always come to us sealed.

Q And when an agent unseals evidence, a record is made of that?

A Not always.

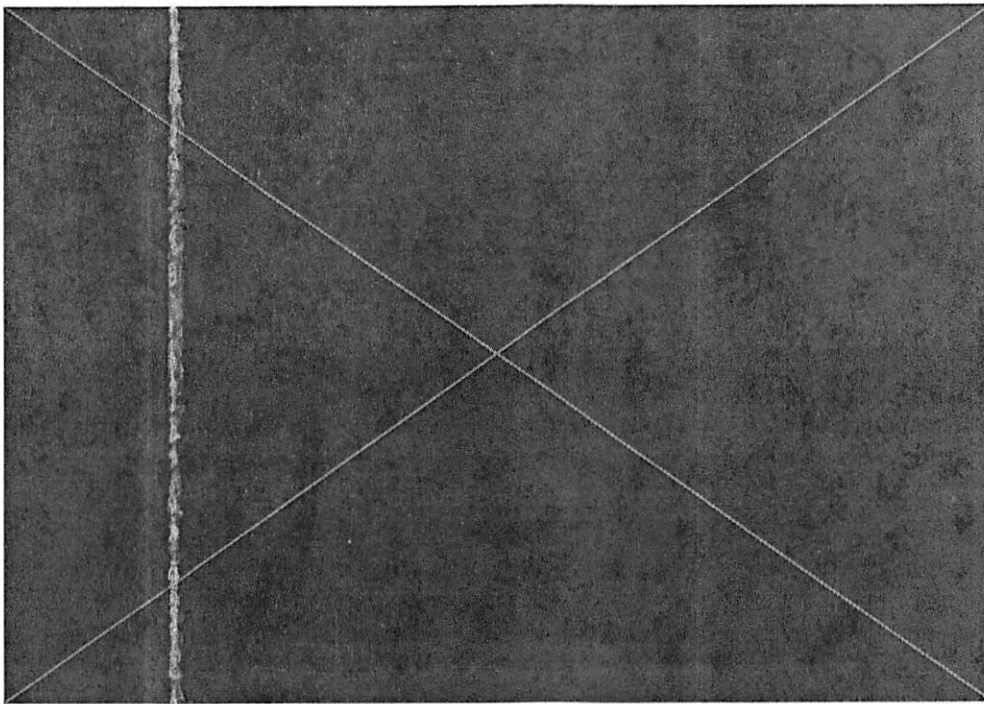
Q Should a record be made of when evidence is opened or unsealed?

A No, I don't think so. It doesn't necessarily need to be.

Q Is it fair to say you have no idea when the box with the camera was unsealed?

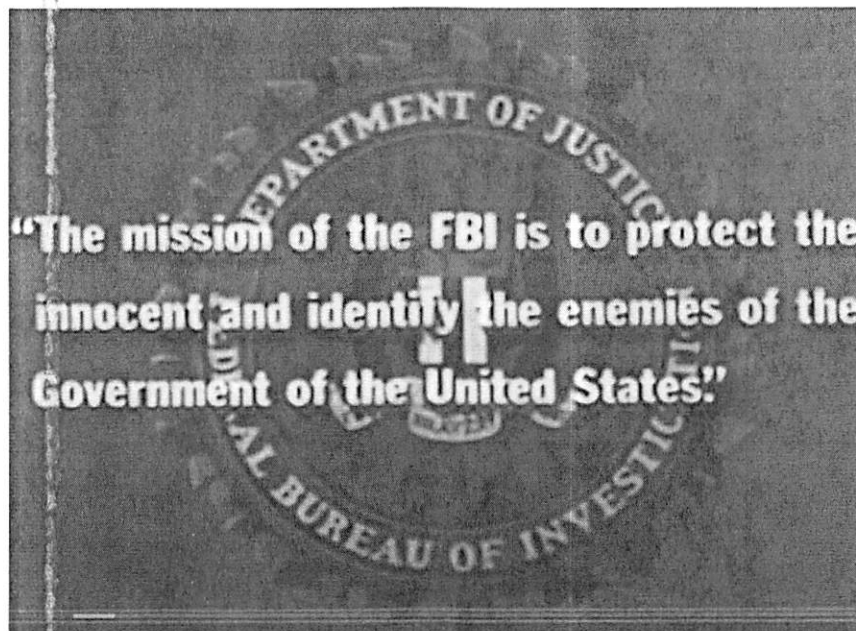
A No, I do not.

I wonder what Christopher Wray, the director of the FBI, would think about Booth's statement.

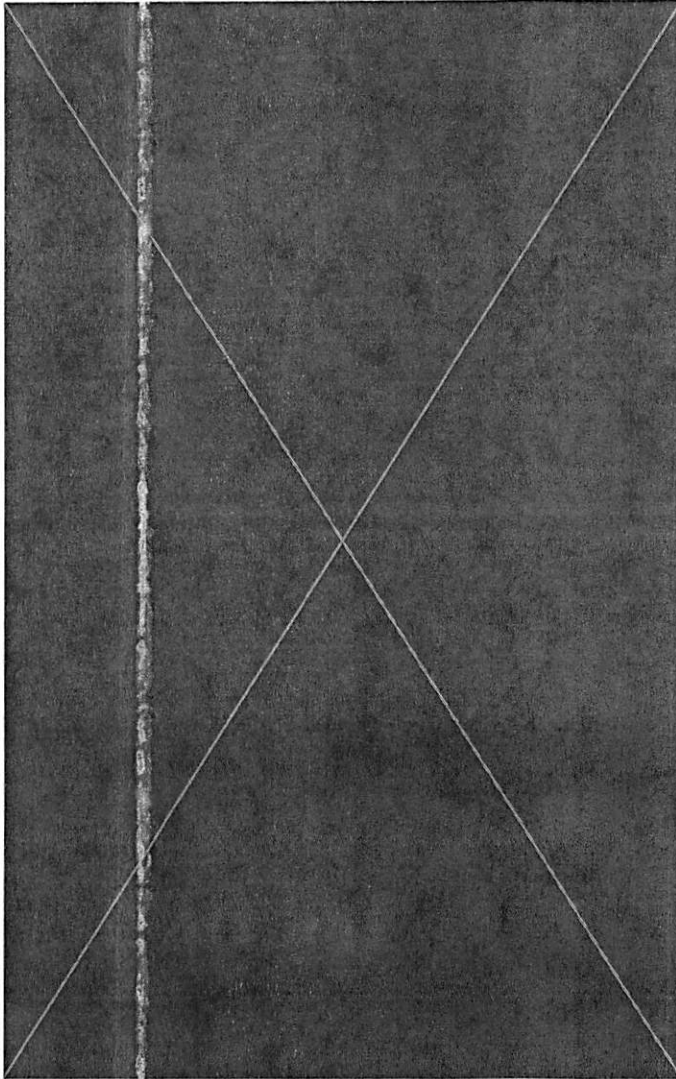


FBI Director Christopher Wray; hopefully he is not just as loose with evidence as the agents working on the Ranieri case.

Does the FBI really want the American public to believe that unsealed evidence is normal, that it is to be expected?



I'll try to give Mr. Wray a call. My question would be, "Is it true when FBI Examiner Brian Booth says that unsealed evidence is to be expected?"



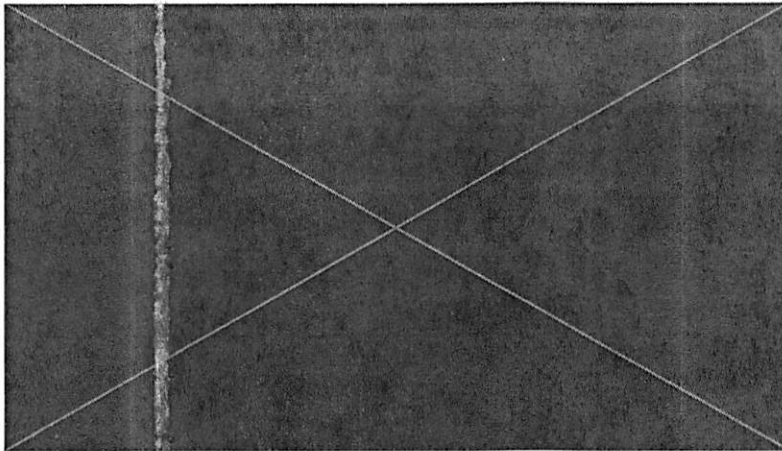
Prosecution and Judge Said Nothing

At this point, the prosecution should have stopped and asked the court, "Your Honor, may we approach? Our expert witness said something we believe is untrue because we've done many cases and we know that sealed evidence is important. This is one of the most critical pieces of evidence. We want to make sure this was sealed evidence, an unbroken chain of custody, and all

protocols were followed. After all, we are officers of the court, and the name of our agency is the Department of Justice.

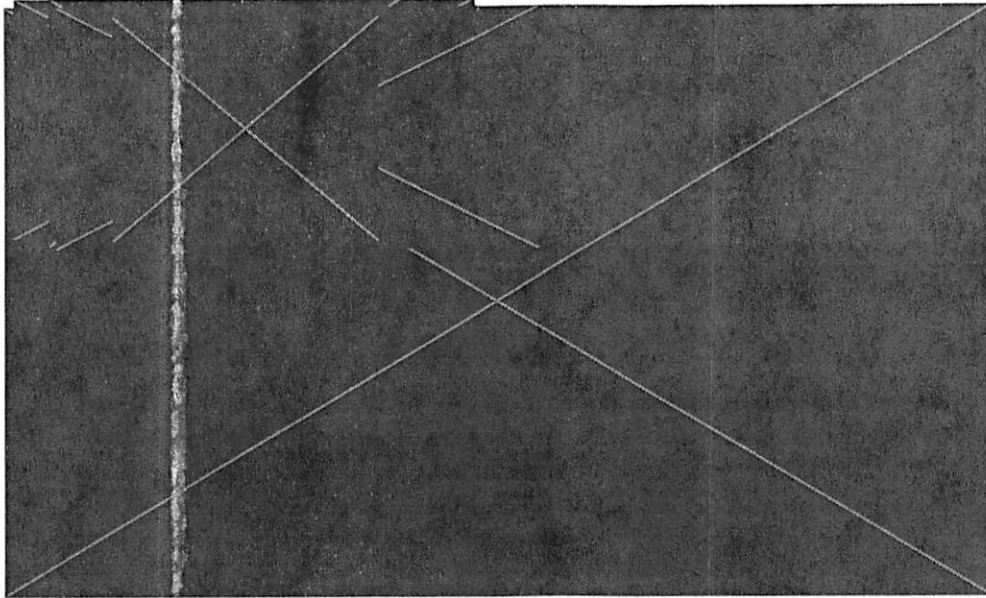
Besides, we do not want any issue on appeal. Of course, it is preposterous what this silly man said, that evidence does not need to be sealed. We all know, your honor you know it, as does everyone at the FBI that unsealed evidence is not protocol."

But that's not what they said, nor would I expect them to say it. They were silent, and in their closing arguments they extolled Booth for his knowledge of EXIF data, which we know is a bunch of baloney.



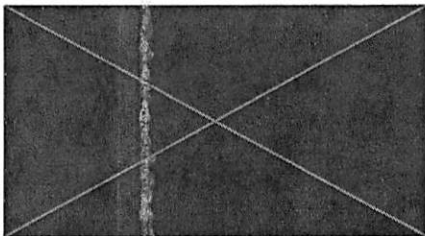
It is understandable that the prosecution heard this and said nothing, for even though they should be interested in justice as their department's name suggests, we all know were only interested in conviction stats and publicity.

Still, the judge should be interested in justice. He is supposed to be neutral. The judge, the Honorable Nicholas G. Garaufis, said he has presided over 500 cases.

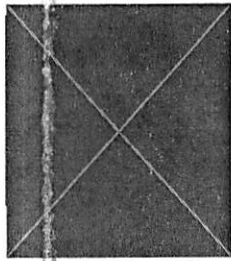


I am sure he knows that chain of custody is paramount to the integrity of evidence, especially digital evidence that can easily be altered or botched, and that this camera card being unsealed is not common, not in the court of Judge Nicholas G. Garaufis.

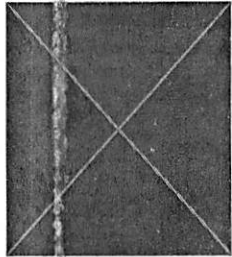
Judge Garaufis was an active, alert judge throughout this case. In Mark Vicente's cross-examination by Marc Agnifilo, Raniere's defense attorney, the judge interjected to ask how long flights to Fiji were:



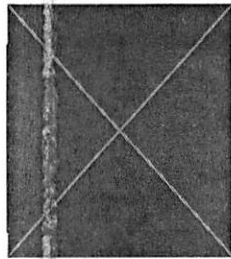
THE COURT: Did you take this picture?



THE WITNESS: I did take this picture, yes.



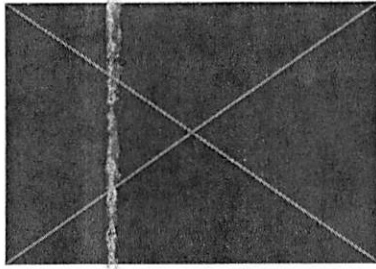
Q Did you enjoy yourself in Fiji?



A Not particularly, I was shooting all the time.



THE COURT: How long did it take you to get to Fiji in hours?



THE WITNESS: I think maybe 18, maybe more. It's like going to Australia, but there is more flights involved.

Recall that the judge intervened to help Daniela with the word "abdomen" and even had her stand up so she could show it on her body.

When Lauren Salzman, a woman in her forties, began to weep, Judge Garaufis took notice at once, and chivalrously dismissed her from enduring further cross examination.

Judge Garaufis explained to Agnifilo: "I may not get everything right up here, but I will tell you, as a human being, it was the right decision. Alright? And before I'm a judge, I'm a human being."

This was a judge alert and on the lookout, yet when the moment came that critical evidence was revealed to be unsealed, the chains of custody not provided, when the FBI forensic examiner Booth says, "This unsealed evidence is just fine," it did not alert this most active judge to leap up and say, "I don't care how contemptible, how odious Raniere is, I know unsealed evidence is not common, what Booth is saying isn't true. Stop the shenanigans. You have enough to win. I will ensure through my jury instructions that the jury will convict Raniere. But don't allow something improper like this to go on the record"?

Summary & Cyber Experts

That's the last circumstantial point I want to make. Now, let's summarize the circumstantial things. See if enough coincidences equal a fact:

1. The FBI agents "found" the bombshell Cami photos on a hard drive, but only after they had it for 11 months, when nobody was willing to take a plea deal and trial was right around the corner.
2. The FBI agents held onto the devices for way longer than protocol, 11 months for the camera card and 4.5 months for the hard drive, instead of 10 days.
3. Someone got into the camera card before it got to the lab, and it was altered on September 19, 2018.
4. The FBI expert was unable to say who got into the camera card. Maybe it was elves.
5. EXIF data was how they proved the dates of the Cami photos, their examiner Brian Booth said it is really reliable, and hard to change. We know that's not true.
6. No one who knew Cami was asked to identify the photos. Any reasonable person would say the prosecutors *avoided* having Daniela and Lauren identify the Cami photos, or even their own photos.
7. The camera card arrived in an unsealed bag with a broken chain of custody.
8. Booth said unsealed evidence is not extraordinary, which is not true.
9. The prosecutors said nothing, the judge said nothing, and yes, the defense said nothing.

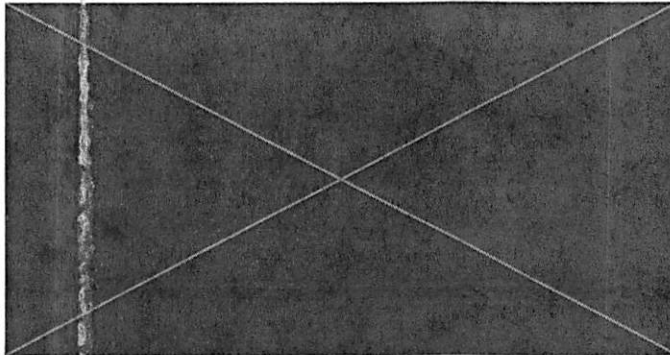
I agree with you, Frank. Those are all circumstantial, but peculiar. Maybe you'll say it's confirmation bias, but if you think this is meaningless, I think your confirmation bias might be greater than mine.

Circumstantial evidence isn't enough. We should get independent forensics experts to look at the metadata, look at the file system data, and look at the government reports.

And that's what we did. There are reputable experts who respect and support law enforcement and the rule of law.

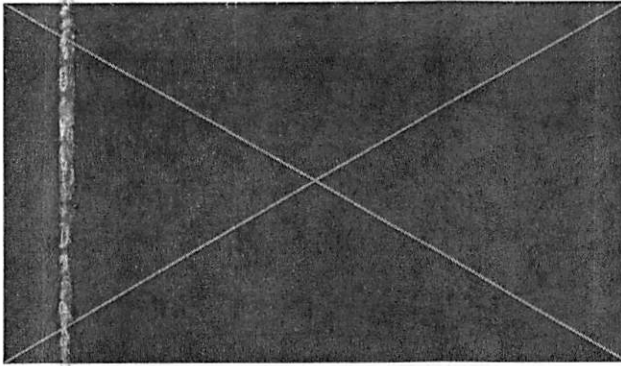
You know their names. I stated them in my letter to Judge Eric Komitee on October 30, 2021, in response to the attempts of that Earl of Exaggeration, Neil Glazer, to involve me in a civil lawsuit to which I am not party.

Here's what I wrote of our experts and their findings in that letter, publicly filed as Document no. 121 in the civil cases:



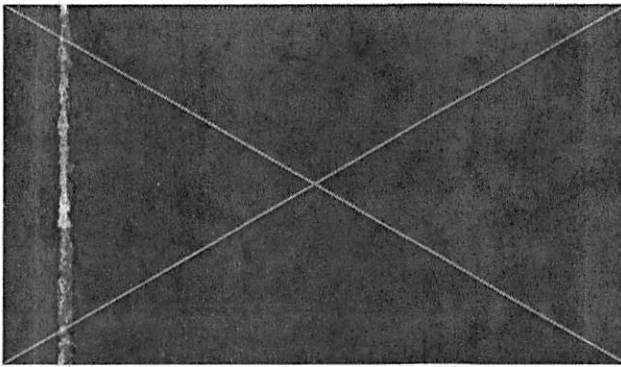
Dr. James Richard Kiper, FBI, retired.

Dr. James Richard Kiper, Ph.D., who served in the FBI for twenty years and retired in 2019, in good standing. He is a celebrated whistleblower and the "raison d'être" of the FBI Whistleblower Protection Enhancement Act of 2016.



Cyber lawyer Steven Abrams has written a comprehensive report on alleged tampering of evidence in the case of USA v Raniere by the FBI.

Mr. Steve Abrams, M.S., J.D., who has advised and trained federal, state and local law enforcement in cyber forensics for three decades, on over 1,200 cases.



Wayne Norris cyber expert.

Mr. Wayne Norris, who has been an expert witness in roughly 100 cases, holds several patents in nuclear instrumentation, and has a diverse technical background, from working on the Apollo project, to project managing for the US Navy, to digital forensics.

These experts stated that prior to this case they had never seen or claimed to have seen credible evidence of tampering on the part of any law enforcement. After examining the forensic evidence, they issued reports which may be used

in a motion in the criminal case, and here are some of their findings:

- FBI Senior Forensic Examiner Brian Booth provided false testimony.
- An unknown person improperly accessed and altered data on the camera card on 9/19/18.
- Photos were added to the camera card while the device was in FBI custody, between 4/11/19 and 6/11/19.
- Date and times of photos on the hard drive were manually altered.
- Folder names were manually set to exact dates and times in 2005, to corroborate the fabricated photo dates.
- The backup folder on the hard drive containing the photos was backdated and manually placed on the hard drive and efforts were made to conceal the forgery and make it look like a legitimate automatic computer backup.
- Dr. Kiper writes in his technical report, "In my 20 years as an FBI agent, I have never observed or claimed that an FBI employee tampered with evidence, digital or otherwise. But in this case, I strongly believe the multiple, intentional alterations to the digital information I have discovered constitute evidence manipulation. And when so many human-generated alterations happen to align with the government's narrative, I believe any reasonable person would conclude that evidence tampering had taken place. My analysis demonstrates that some of these alterations definitely took place while the devices were in the custody of the FBI. Therefore, in the absence of any other plausible explanation it is my expert opinion that the FBI must have been involved in this evidence tampering."
- Mr. Abrams writes, "[I]t saddens me to conclude that the most plausible explanation for these artifacts is manual alteration of the digital photographic and file system evidence and an unsuccessful attempt to cover that manual alteration, at least some of which had to have occurred while the evidence was in the custody of the FBI."
- Mr. Norris writes, "I believe based on what I have reviewed that Dr. Kiper is correct in his assessments that no plausible explanation exists for the

anomalies in the Government's exhibits other than intentional tampering on the part of the Government."

Admittedly Frank, I have an advantage. I have seen the analysis. I know what's coming, and you'll just have to wait.

The forthcoming Rule 33 motion on FBI tampering will be devastating. I don't know who will be implicated.

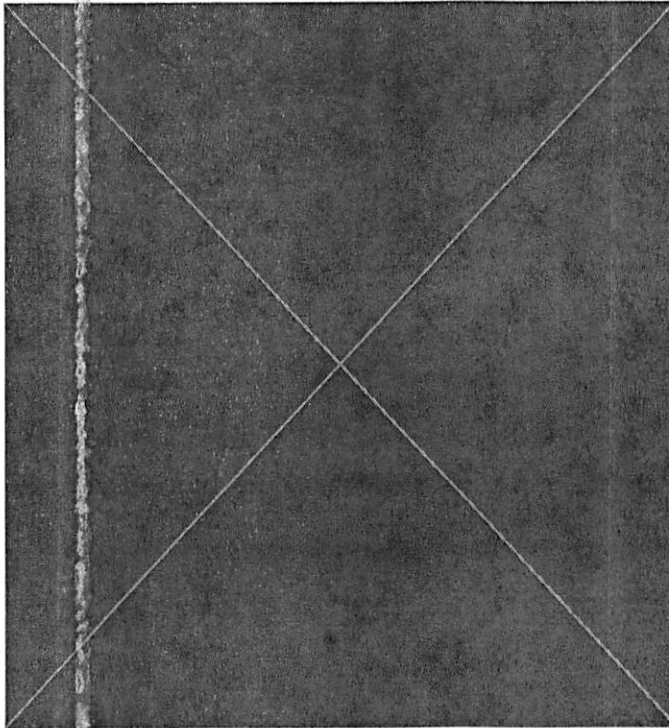
Certainly, the extraordinary Brian Booth, the zealous Michael Lever, and others are suspect.

As for Daniela, you mentioned her in your post. I don't know Daniela. I've never met her. I saw her testify at trial, and in the trial, she admitted she is a hacker and admitted to other criminal conduct, for example:

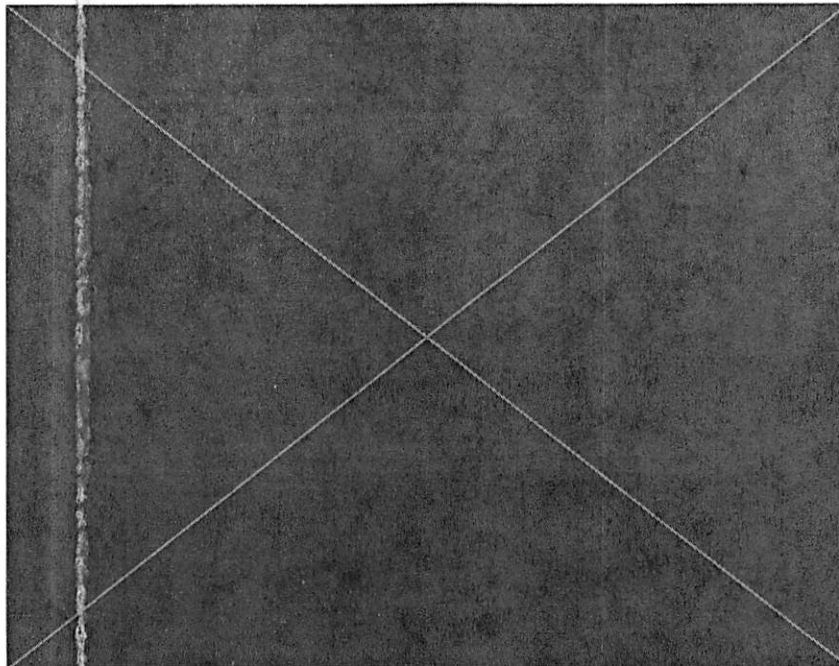
- Entering the United States illegally (See page 2436)
- Attempting to hack into the email account of Joe O'Hara through the technique of key logging (See pages 2532 - 2538)
- Hacking into James Loperfido's emails account through key logging (See pages 2541 - 2544)
- Hacking into Edgar Bronfman's email through key logging (See pages 2547 - 2556)
- Hacking into her sister Marianna's Facebook account through key logging (See pages 2559 - 2564)
- Stealing \$6,000 from NXIVM (See page 3051)

Glazer says of her and her computer abilities, in his First Amended Complaint, that Daniela provided NXIVM "labor and services in: IT and cybersecurity."

Yeah, that's one way to put it.



Daniela testified she had access – effectively unfettered access – to 8 Hale Drive where the hard drive and camera card were found.



Keith Raniere at 8 Hale Drive, from where the hard

drive with the Camila photos was seized.

She testified she took care of the backups.



Western Digital hard drive – the same model that the FBI seized from Keith Raniere’s library.

She may have taken backups to Mexico. I believe she was working with the prosecution very early on.

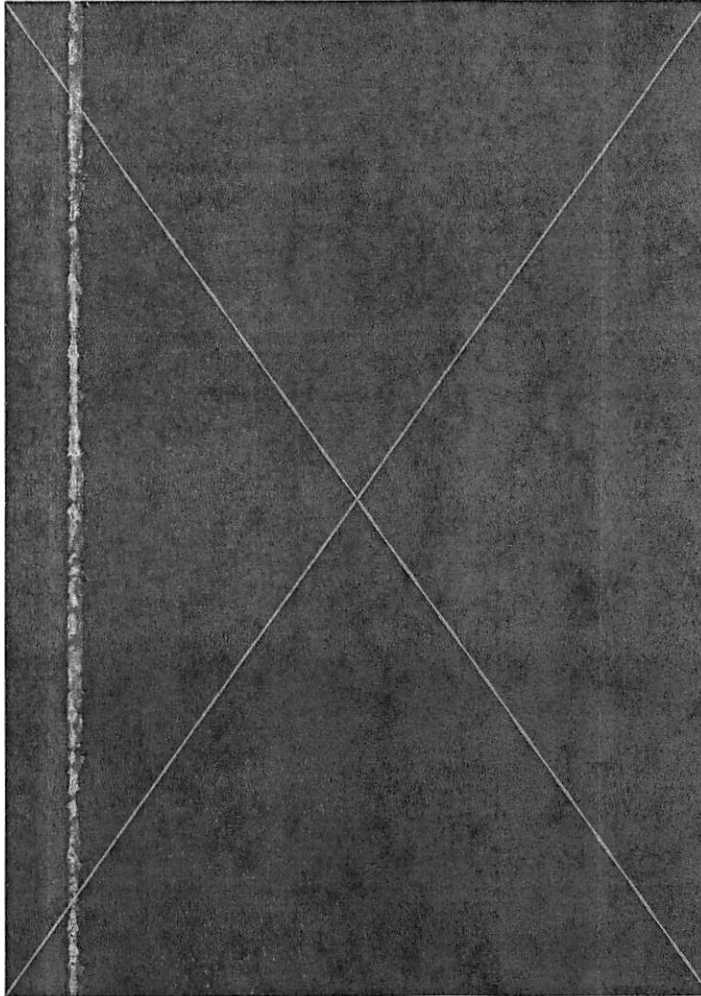
I don’t know if she provided the Cami photos that I and the experts believe were planted. I don’t know if she was involved at all.

If she was, I don’t know whether it was before or after she was involved in the civil lawsuit, or whether she decided to be in the civil lawsuit before or after the trial.

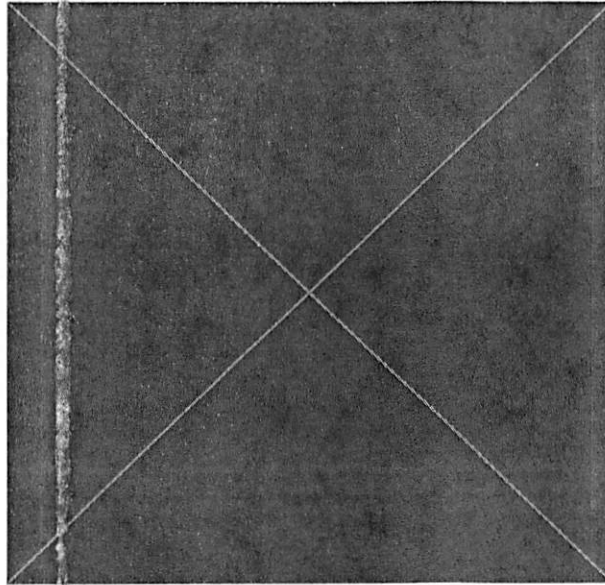
But I suspect the truth will come out soon.

Regardless, I would hope that even you, Frank, with your anti-Raniere confirmation bias, when you see the Rule 33 motion and the evidence, the undeniable, unassailable conclusions of experts, who have no love for Raniere

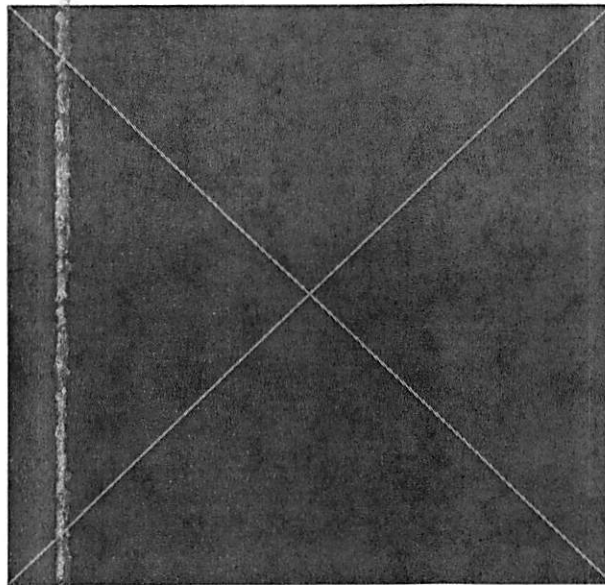
or NXIVM, they've never met him, never spoken with him, never met Clare Bronfman or spoken with her, and have no connection to NXIVM, these experts who support law enforcement and are saddened by what they've seen, I hope it saddens you too.



Perhaps your readers think it's okay if FBI agents cheat and lie to nail Raniero the Repugnant, and he ought to stay in prison no matter what.



Maybe they'll want to dismiss me altogether as biased. Maybe I'm a bad messenger, the worst of them all because I bring a message that no one wants to hear.



It's a small step from cheating to convict Raniere to cheating to convict the second most reviled person, then the third, then someone who is mildly disliked, to someone who is just in your way.

If this Rule 33 motion fails on its merits, so be it. But if it fails because the

corruption that birthed and executed an elaborate plot to tamper, falsify, and lie has reared its ugly head once again, this is not good and it will not stand.

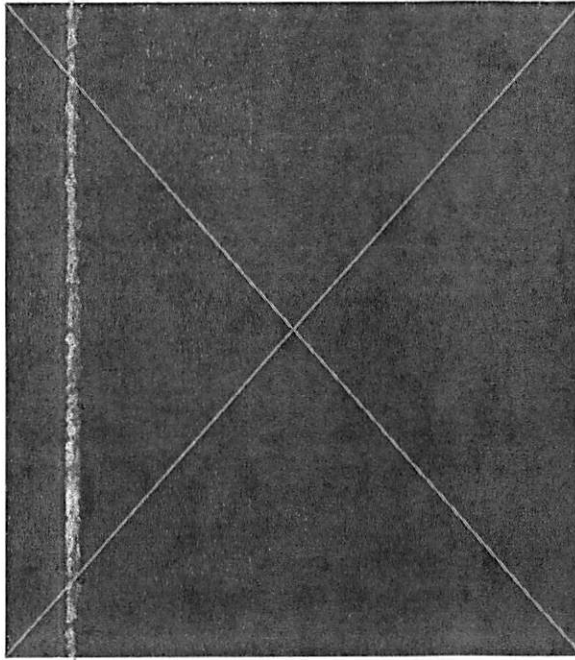
I think you are a reasonable man, Frank, and despite making an international career out of antagonizing NXIVM, its students, and its leadership, rightfully or wrongfully, I don't believe you would look the other way and let this be swept like so much dirt we don't want to see under the rug.

I don't believe you are part of the cult of The-Government-Can-Do-No-Wrong or that we should believe everything FBI agents or federal prosecutors tell us.

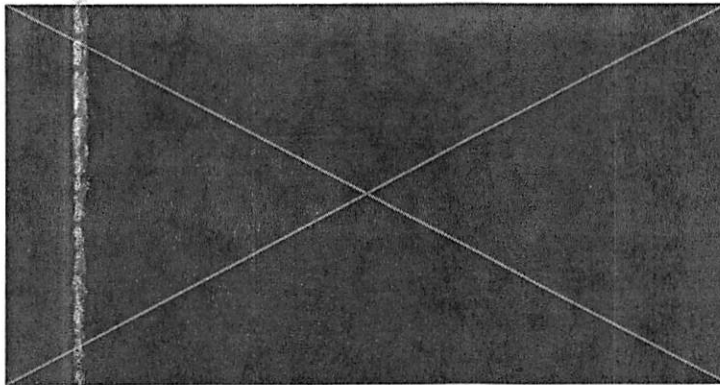
Even if it's true that Raniere abused Camila, and your position is well known [that you believe he did], if you see the facts show that FBI agents, possibly in collusion with the prosecution, possibly with the help of civilians, such as a Philadelphia lawyer and technically-minded civilians in the United States or in Mexico, conspired to falsify evidence over a period of months, you would not let your personal hatred of Raniere, Bronfman, and NXIVM, or your fondness for said lawyer, or Mexican señoritas, to stop you from exposing an even bigger bully than you believe Raniere to be.

Let the carping critics now speak.

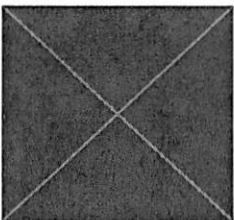
Parlato's Response



Phew, dude, you certainly went full tilt on this one. I was just relaxing a bit today having thought I heard the last from you for a while. But here you go again. This is remarkable – for its accusatory vehemence – must be rebutted. I will do so. Stay tuned.



About the author



Suneel Chakravorty